

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

\* No. 1:20-cr-00006-PB  
\* September 22, 2020  
\* 1:18 p.m.

CHRISTOPHER CANTWELL,

Defendant.

CHRISTOPHER CANTWELL,  
Defendant. \*

TRANSCRIPT OF DAY ONE OF JURY TRIAL - AFTERNOON SESSION

BEFORE THE HONORABLE PAUL J. BARBADORO

## APPEARANCES:

For the Government: AUSA John S. Davis  
AUSA Anna Z. Krasinski, Esq.  
U.S. Attorney's Office

For the Defendant: Eric Wolpin, Esq.  
Jeffrey S. Levin, Esq.  
Federal Defender Office

Court Reporter: Brenda K. Hancock, RMR, CRR  
Official Court Reporter  
United States District Court  
55 Pleasant Street  
Concord, NH 03301  
(603) 225-1454

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2 WITNESSES:            DIRECT            CROSS            REDIRECT            RECROSS

3                   **SHAYNE TONGBUA**

4 By Ms. Krasinski                         8

By Mr. Levin                                 86

5                   E    X    H    I    B    I    T    S

6                   Govt's                                    In Evd.

7                   100.....14

8                   113.....25

9                   112.....26

10                  304.....32

11                  101.....34

12                  301.....37

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14                  102.....40

15                  400.....46

16                  600.....51

17                  601, 603, 605, 608.....53

18                  200.....58

19                  201 thru 226.....78

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1                   P R O C E E D I N G S

2                   THE CLERK: All rise for the Honorable Court.

3                   Please remain standing for the jury.

4                   (The jury entered the courtroom)

5                   THE CLERK: Please be seated. This hearing is back in  
6 session.

7                   THE COURT: All right. Please call your next witness.

8                   MS. KRASINSKI: The United States calls Special Agent  
9 Tongbuia.

10                  THE COURT: Yes. Hang on a second.

11                  MR. WOLPIN: Could we have a brief sidebar, your  
12 Honor?

13                  THE COURT: Yes. So, the lawyers and I are going to  
14 put the headsets on.

15                  (SIDE BAR CONFERENCE AS FOLLOWS):

16                  THE COURT: Go ahead, Counsel.

17                  MR. WOLPIN: The government noted to us that with this  
18 witness it intends to play jail call recordings of our client  
19 specifically in relation to, I believe, a handful but one, in  
20 particular. They spliced out very small sections of that  
21 recording. We objected under rule of completeness, Rule 106,  
22 to it being played and presented in that manner. We have the  
23 full recording in an exhibit within our exhibit list as B16,  
24 and before they get prepared to present that, I would ask that  
25 the Court listen to the recording in its entirety to understand

1 why it's necessary to understand the context in which he's  
2 speaking. It can't just be isolated that way. It's misleading  
3 to do that, but I think the best way to do that, rather than  
4 have me recharacterize it, is to listen.

5 THE COURT: Well, all right. In the future, if you've  
6 got a problem like this, present it to me before the jury is  
7 brought back in. I don't want to be constantly sending the  
8 jury in and out to address these kinds of problems, and I don't  
9 want them sitting here while I listen to a recording unless  
10 it's more than a few seconds long. I need the government to  
11 tell me what you're doing and why you wouldn't just play the  
12 whole call.

13 Yours is still off. You've got to turn it on.

14 THE CLERK: She needs to talk into the microphone.

15 THE COURT: Just talk into the microphone.

16 MS. KRASINSKI: I also only got about half of the  
17 audio there. It's not a jail call, your Honor. It's a call  
18 that Mr. Cantwell recorded between himself and a friend of his,  
19 an ex-girlfriend, and then emailed to law enforcement. The  
20 government has made, I believe, five or four or five clips from  
21 that call.

22 THE COURT: How long is the call?

23 MS. KRASINSKI: The call itself is a few minutes.

24 THE COURT: What's the problem with playing the whole  
25 call?

1                   MS. KRASINSKI: Well, I think the portions of the call  
2 -- I'm sorry. The audio for me keeps going out. The portions  
3 of the call are inadmissible, self-serving hearsay and should  
4 not be allowed under 801, so the government intends to  
5 introduce portions.

6                   THE COURT: All right. I can't evaluate that argument  
7 without listening. I'm going to apologize to the jurors.  
8 Don't put me in this position again. If the parties have  
9 objections like this, don't just wait until the jury is brought  
10 in and raise them; raise them before the jury comes back in so  
11 I can address the problem.

12 (END OF SIDEBAR CONFERENCE)

13                  THE COURT: I'm sorry, Members of the Jury, I've got  
14 to excuse you again. Please be patient with us. As the  
15 lawyers adjust to this new system I think we'll be more  
16 efficient, and I'll do my best to make sure things run  
17 efficiently, but I've got to take another short break, okay?  
18 We'll bring you back in as soon as we can.

19                  THE CLERK: All rise.

20                  (The jury exited the courtroom)

21                  THE COURT: All right. So, you don't want to play the  
22 whole call, not because of its length, but because you think  
23 there are things in there that you don't think the jury should  
24 hear in the call; is that right?

25                  MS. KRASINSKI: Yeah, your Honor.

1           THE COURT: All right. And the call's about a couple  
2 of minutes long?

3           MR. WOLPIN: It's about seven, total.

4           THE COURT: Do you have a transcript of it?

5           MR. WOLPIN: I do not.

6           MS. KRASINSKI: We only have a transcript of --

7           THE COURT: What's in it that's in there that you  
8 don't think the jury should hear?

9           MS. KRASINSKI: So, I don't think the jury should be  
10 able to hear Mr. Cantwell discussing how what he thinks he's  
11 trying to do is solve a crime. I don't think the jury should  
12 hear from us. We're not using it against the defendant. The  
13 defendant's talking about other members of Bowl Patrol  
14 harassing him. 801 specifically defines something as not  
15 hearsay as a party statement used against that party, and we  
16 don't intend to use those portions against Mr. Cantwell. There  
17 are other ways to remedy.

18           THE COURT: You understand the rule of completeness,  
19 right?

20           MS. KRASINSKI: I do, your Honor.

21           THE COURT: All right. So, that's his argument.  
22 What's your response?

23           MS. KRASINSKI: So, the rule of completeness I think  
24 only applies if the segment is misleading in some way. So,  
25 having a question and an answer, that's not misleading, and so

1       the portions that the government intends to introduce aren't  
2       misleading in a way that would make the rule of completeness  
3       overrule the hearsay rules. In the government's response to  
4       the defendant's supplemental objections we cited --

5                  THE COURT: Do you have a written excerpt of the  
6        portions -- this is going to take ten minutes. Do not do this  
7        to me again. We have got to move more efficiently through  
8        these proceedings. The defendant should have raised this  
9        objection with me earlier. We need to be more efficient. All  
10      right? So, you're on notice. I first have to listen to your  
11      proposed excerpts, then I have to listen to the whole call,  
12      then I will make my ruling. There's no other way I can do it,  
13      and you've just wasted another 15 or 20 minutes of the jury's  
14      time, which is not acceptable to me. So, you're all on notice  
15      I will not tolerate it.

16                  MS. KRASINSKI: Your Honor, I don't intend for this to be  
17        the first thing to go through with the witness. There's a lot  
18        to go through with the witness. This is something that I can  
19        wait until after -- we can address this on a break, give the  
20        Court time to listen to it all. I can start with the witness  
21        on a number of other topics.

22                  THE COURT: Can you go until quarter of 3:00 without  
23        covering this?

24                  MS. KRASINSKI: Probably, your Honor.

25                  THE COURT: All right. Let's get the witness in, and

1 let's get going.

2 THE CLERK: All rise for the jury.

3 (The jury entered the courtroom)

4 THE CLERK: Please be seated.

5 THE COURT: All right. Call your witness.

6 MS. KRASINSKI: The United States calls Special Agent  
7 Tongbua.

8 **SHAYNE TONGBUA**, duly sworn by the Clerk.

9 THE CLERK: Thank you. Would you please state your  
10 name and spell your last name for the record.

11 THE WITNESS: Shayne Tongbua, S-h-a-y-n-e,  
12 T-o-n-g-b-u-a.

13 DIRECT EXAMINATION

14 BY MS. KRASINSKI:

15 Q. Agent Tongbua, by whom are you employed?

16 A. The Federal Bureau of Investigation.

17 Q. How long have you served the FBI?

18 A. Since 2009.

19 Q. And what is your current role?

20 A. I am a Special Agent.

21 Q. How long have you been a Special Agent?

22 A. Since 2016.

23 Q. Are you assigned to a particular location?

24 A. Yes, to the FBI Boston Office. More specifically, I work  
25 here in New Hampshire.

1 Q. And what did you do before you were a special agent with  
2 the FBI?

3 A. I also served in the Army from 2003 to 2009.

4 Q. And within the FBI, before you became a special agent,  
5 what did you do?

6 A. So, including my military time, I've been a certified bomb  
7 technician since 2004. So that's the job I was originally  
8 recruited to do in the Bureau, but the seven years before I was  
9 an agent also included two years when I was a digital forensic  
10 examiner.

11 Q. Can you generally briefly describe your training to become  
12 a digital forensic examiner?

13 A. It's a set pipeline or training path, if you will. I'm  
14 not exactly sure today what those courses entail, but it's  
15 generally between 10, 12, 14 weeks of different training that  
16 you have to complete in order to get your certification to be  
17 an examiner, and that does include various industry IT  
18 certifications.

19 Q. And can you briefly describe the training to become a  
20 special agent?

21 A. Again, I'm not sure what it is today, but the time I went  
22 through it was 21 weeks at the FBI Academy in Quantico,  
23 Virginia.

24 Q. Now, let's dive into what brings us here today. In July  
25 of 2019 did you receive information about messages that

1       appeared to be sent by Mr. Cantwell to someone else?

2       A.     Yes.

3       Q.     How did you receive that information?

4       A.     Those, that message exchange, those screenshots were first  
5       relayed to a handful of us here in New Hampshire via an intel,  
6       an intelligence analyst at our headquarters in Washington, D.C.

7       Q.     So, when you received the screenshots of this message  
8       exchange, what did it look like?

9       A.     Like a website. So, kind of akin to Facebook, how you  
10      would just see messages posted there, almost like a blog, and  
11      so there was a series of them. They looked like an exchange  
12      between two people.

13      Q.     So, if I'm understanding you correctly, it looked like an  
14      exchange between two people had been publicly posted?

15      A.     That's correct.

16      Q.     Did you look at the exchange between two people?

17      A.     Yes.

18      Q.     And did it look like text messages, like what it would  
19      look like on your phone?

20      A.     Yes. That's a very accurate description.

21      Q.     And so, did you review the messages contained in that  
22      exchange?

23      A.     Yes.

24      Q.     How many parties to that exchange were there?

25      A.     Two.

1       Q. And during the course of the investigation did you  
2 identify the two parties to that exchange?

3       A. Yes.

4       Q. Who were they?

5       A. The defendant, Mr. Christopher Cantwell, and the alleged  
6 victim in the exchange went under the pseudonym Chddy Blac,  
7 and that is associated with a Benjamin Lambert.

8       Q. Generally speaking, how did you identify Christopher  
9 Cantwell as one of the parties to this conversation?

10      A. Due to familiarity with his Telegram account which was  
11 used in that, in addition to Mr. Cantwell's own statements when  
12 he admitted having that exchange.

13      Q. And what about Mr. Lambert? How did you identify that he  
14 was a party to the exchange?

15      A. After we identified Mr. Lambert he admitted that he was a  
16 part of that same message exchange, that he was the user known  
17 as Chddy Blac.

18      Q. So, we're talking about messages between two people, so if  
19 I'm sending you text messages, for example, did it look like --  
20 would there be sort of two mirror images of that?

21      A. Correct. There would be, basically, like if you and I  
22 were having a conversation there would be my side and your side  
23 where all the content is the same, basically. If you guys are  
24 familiar with texting, the layout would just be flipped.

25      Q. So, there are essentially two mirror images of this

1 conversation?

2 A. Correct.

3 Q. One from one party's phone or side?

4 A. Correct.

5 Q. And one from the other's?

6 A. Yes.

7 Q. So, the first message exchange, the version that you first  
8 received, whose side of the conversation did that appear to be  
9 from?

10 A. That would be Mr. Lambert's.

11 Q. And during the course of the investigation did you find  
12 the mirror image, the images as they would have appeared from  
13 Mr. Cantwell's side of the conversation?

14 A. Yes, I did.

15 Q. Tell us about that.

16 A. The only place I located the entire set was on  
17 Mr. Cantwell's phone.

18 Q. How is it that you came to look at the information on  
19 Mr. Cantwell's phone?

20 A. So, that device and a number of others were seized  
21 pursuant to a search warrant which was executed at  
22 Mr. Cantwell's residence in January 2020, on the same day of  
23 his arrest.

24 Q. So, the device that we're talking about where you found  
25 these images, what device was that?

1 A. It was a Samsung phone. I believe we took three that day,  
2 and this particular one was discovered on a small side table,  
3 basically a bedside stand, in Mr. Cantwell's bedroom.

4 Q. Now, you mentioned that you executed this warrant and  
5 seized these devices from Mr. Cantwell's residence. Where is  
6 that residence?

7 A. In Keene, New Hampshire.

8 Q. Did anyone else live there at the time?

9 A. Not in that apartment.

10 Q. And was anyone else there at the time you executed the  
11 warrant?

12 A. No.

13 Q. This cell phone, was it forensically downloaded?

14 A. Yes.

15 Q. And after the forensic extraction did you review the data  
16 from the phone?

17 A. Yes.

18 Q. And is that where you found the mirror image,  
19 Mr. Cantwell's side of this conversation?

20 A. Yes.

21 Q. Can you describe how that was in the phone?

22 A. I'm sorry?

23 Q. Can you describe sort of the file type that it was found?

24 A. Basically, they were screenshots, so it would look the  
25 way, you know, the display on your phone would look.

1               MS. KRASINSKI: So, I want to show the witness only  
2 what has been marked for identification as Government's Exhibit  
3 100.

4 Q. Is that on your screen, Agent Tongbua?

5 A. No, it is not. Yes, it is now.

6 Q. Do you recognize that?

7 A. Yes.

8 Q. What is it?

9 A. This would be the first in the series of messages that we  
10 were just describing as they would have appeared on Mr.  
11 Cantwell's phone.

12               MS. KRASINSKI: And, Ms. Sheff, would you please  
13 scroll through Exhibit 100 so Agent Tongbua can see all of the  
14 pages.

15 Q. Now that you've had a chance to look at all of it, is it  
16 the entire conversation between Mr. Cantwell and Mr. Lambert?

17 A. Yes.

18               MS. KRASINSKI: Your Honor, I move to strike the  
19 identification on Exhibit 100.

20               THE COURT: Is there an objection?

21               MR. LEVIN: No objection.

22               THE COURT: Without objection, it will be admitted as  
23 a full exhibit.

24               (Government's Exhibit No. 100 received into evidence)

25               MS. KRASINSKI: Permission to publish, your Honor?

1 THE COURT: Yes.

2 MS. KRASINSKI: Could we please display Government's  
3 100 to the jury?

4 Q. Now, Agent Tongbua, at the top of the page you see the  
5 name Cheddy Blac?

6 A. Yes.

7 Q. And tell us again what you learned about that.

8 A. There was an individual who goes by different pseudonyms,  
9 Chddy Blac, Cheddarman and Cheddar Mane, and that individual  
10 was identified as a Mr. Benjamin Lambert.

11 Q. And you said the other party to this conversation is the  
12 defendant, Christopher Cantwell, correct?

13 A. Correct.

14 Q. And, generally, who is Mr. Cantwell?

15 A. Mr. Cantwell, who you see here in the courtroom, is a  
16 self-professed Nazi podcaster and blogger.

17 Q. Now, the screen in front of you should allow you to make  
18 markings on it. Would you please go ahead and mark a "C" next  
19 to the messages that are attributed to Mr. Cantwell.

20 A. Is there a marking tool?

21 Q. You should just be able to use your finger, Agent Tongbua.

22 THE COURT: Go up and help him.

23 THE CLERK: I'm not getting a menu.

24 | (Pause)

25 MS. KRASINSKI: It looks like I can annotate. Can we

1 try this a different way?

2 Q. Agent Tongbua, I'm going to put something next to the  
3 messages, and can you confirm for me whether or not they are  
4 attributed to Mr. Cantwell?

5 A. Yes.

6 Q. So, I've marked four Xs next to sort of the green, the  
7 text in green boxes. Are those the conversations, the messages  
8 attributed to Mr. Cantwell?

9 A. Yes.

10 Q. Now, what's the date of this exchange?

11 A. June 15th, 2019.

12 Q. And what is the first message that Mr. Cantwell sends?

13 A. I guess you forgot the lesson which kept you away for a  
14 short while. Do you need to be reminded? Twin Creek Road.

15 Q. What time was the first message?

16 A. 9:00 p.m.

17 Q. And did Mr. Lambert respond to that message?

18 A. No.

19 Q. And you read the second message, "Twin Creek Road." What  
20 time was that message sent?

21 A. 9:29 p.m.

22 Q. So, almost a half an hour after the first one?

23 A. Correct.

24 Q. During the course of your investigation did you learn what  
25 Twin Creek Road is?

1 A. Yes. That is the known address of the Lambert family's  
2 house.

3 Q. How do you know?

4 A. Through verification record checks and having personally  
5 visited that location.

6 Q. When you visited the location did you interact with  
7 anyone?

8 A. Yes.

9 Q. Who?

10 A. Pam Lambert, Ben's wife, she was there with the three  
11 children. She greeted us and spoke with us when we arrived.

12 Q. So, this address, you learned that a Ben Lambert does live  
13 there?

14 A. Yes.

15 Q. Along with his wife and children?

16 A. Yes.

17 Q. Now, I want to next talk about a statement that would be  
18 attributed to Mr. Lambert. Do you see the statement that  
19 begins, Let's think about this?

20 A. Yes.

21 Q. Can you read that, please?

22 A. Let's think about this. Every time someone you think is  
23 in BP talks shit about you, a public figure, you threaten to  
24 dox me. Say you did. What then?

25 Q. Now, during the course of your investigation did BP come

1 to have any meaning for you?

2 A. Yes. It's understood to be an abbreviation for the Bowl  
3 Patrol.

4 Q. And what is Bowl Patrol?

5 A. It is a group of online individuals who basically espouse  
6 hate and violence, and they affiliate with the white  
7 supremacists' extremist ideology.

8 Q. Now, did you learn about a relationship between Mr.  
9 Cantwell and Bowl Patrol?

10 A. Yes.

11 Q. Can you describe that for us?

12 A. It appears that they had a historical relationship going  
13 back a few years ago. They appeared to be colleagues,  
14 like-minded individuals, and it seemed as though Mr. Cantwell  
15 basically helped give them a platform where they were just kind  
16 of getting started as a place to post some of their online  
17 content.

18 Q. What do you mean by "give them a platform"?

19 A. A foothold. Because he was an established individual, he  
20 has websites, he has his podcasts and regular shows, they  
21 really didn't have that platform. So, if you're starting out,  
22 if you can latch onto someone who's established, they can sort  
23 of vouch for you, you can post onto their websites, maybe  
24 feature on their shows, and so it's a way to help bring in new  
25 people into those types of arenas.

1 Q. And so, did Bowl Patrol create a podcast of sorts?

2 A. Yes.

3 Q. What was that called?

4 A. The BowlCast.

5 Q. And where was that initially hosted?

6 A. On a few different places. Radio Werewolf, as we've  
7 mentioned already, and I know that Mr. Cantwell hosted some of  
8 their content on his sites as well.

9 Q. And was Mr. Cantwell ever involved in the BowlCast?

10 A. Yes. He was actually the special guest on the very first  
11 episode.

12 Q. The members of Bowl Patrol, do they use pseudonyms?

13 A. Yes.

14 Q. Why?

15 A. Apparently to protect their true identities, to maintain  
16 anonymity online so they -- to say things that they felt they  
17 could say safely without being exposed.

18 Q. Is that uncommon in this white nationalist community?

19 A. No. It's very common.

20 Q. And at some point did that relationship sour?

21 A. It appears so.

22 Q. When did that relationship sour?

23 A. Approximately late 2018, it appears.

24 Q. Now, below that message there's a new date. Did this  
25 conversation continue into the following day?

1 A. Yes.

2 Q. And so, what was the next day?

3 A. June 16th, 2019.

4 Q. And let's look now at the last two messages on this page  
5 sent by Mr. Cantwell. Can you please read those for us?

6 A. Get a fucking life or I will ruin the one you have. Don't  
7 bother anyone. Then you won't have to worry about crossing me.

8 Q. And before we continue did you learn what platform these  
9 messages were sent on?

10 A. Yes. These were all sent on Telegram.

11 Q. What's Telegram?

12 A. It's an online instant messaging platform. It has a lot  
13 of other capabilities, like Voice over IP, file sharing, things  
14 like that. It's widely regarded because of the simplicity,  
15 ease of use and the security features. It has encryption,  
16 secret chats, private channels, things like that.

17 Q. What's a "channel"?

18 A. So, as opposed to like we were saying, you can do direct  
19 messages between two people. A "channel" would be a place  
20 where you can post content, almost like a page or a blog.  
21 Typically, only a person with admin. rights to that channel  
22 would be able to post there. Subscribers could belong to that  
23 channel; then they can follow the posts. Corresponding with  
24 that, they usually can set up a discussion group, and then in a  
25 discussion group you can have sidebar conversations where

1 anyone who participates in that channel can participate in the  
2 discussion groups.

3 Q. So, on Telegram you can have sort of a channel or a blog,  
4 a group chat, and you can also send private messages?

5 A. Correct.

6 Q. What are these?

7 A. These are direct messages, so one-to-one exchange.

8 Q. So, what's the sort of physical act that you need to do to  
9 send a message?

10 A. Generally speaking, you'd select the user that you intend  
11 to message, you open a box, type -- think about what you want  
12 to say, type your box, depending on your platform might spell  
13 check, and then you push "Send" or "Transmit."

14 Q. Now, let's turn to the next page of Government's Exhibit  
15 100. And, again, I'm going to mark next to some  
16 communications, and after that can you confirm whether those  
17 are the communications attributed to Mr. Cantwell?

18 A. Yes.

19 Q. Are those Mr. Cantwell's statements?

20 A. Yes.

21 Q. Okay. Let's look at these four main messages sent by  
22 Mr. Cantwell. We can look at them all at once. Agent Tongbua,  
23 can you read the first message for us.

24 A. You're a fucking liar. You came here with your loser  
25 fucking pals because you have the attention span of a nigger

1 and the morals of a kike, and because of that fact you're going  
2 to lose everything you have.

3 Q. And what time was that sent?

4 A. I think that's 4:15 p.m.

5 Q. And how long after sending that message did Mr. Cantwell  
6 send the next message?

7 A. In approximately a half an hour.

8 Q. What's that next message?

9 A. Next time I post that photo, the faces won't be blurred,  
10 and then you're going to start getting unexpected visitors.

11 Q. And the next two?

12 A. And I don't care if it's you causing the trouble, you're  
13 the one who's gonna suffer, 'cause you're the one who I can  
14 get. If you want to dox Vic, he's a better target, but if you  
15 give me fake info, then your wife is going to have trouble  
16 sleeping at night until she leaves you and takes your kids  
17 away.

18 Q. So, let's break this down a bit, and let's focus on the  
19 last message first, If you want to dox Vic... During the  
20 course of this investigation did you learn who "Vic" referred  
21 to?

22 A. Yes. That's a reference to an individual who goes by "Vic  
23 Mackey," who is known to be the sort of ringleader of Bowl  
24 Patrol.

25 Q. Is Vic Mackey a true name or a pseudonym?

1 A. A pseudonym.

2 Q. And you mentioned before a bit about the Bowl Patrol's  
3 relationship with Mr. Cantwell. Did you learn about Vic  
4 Mackey's relationship with Mr. Cantwell specifically?

5 A. A little bit.

6 Q. What did you learn?

7 A. Again, Mr. Cantwell told us basically the same thing, that  
8 Vic was known to be the ringleader. At one point Mr. Cantwell  
9 had given Vic admin. credentials to his website so that he  
10 could post some of the Bowl Patrol content there. Ultimately,  
11 the two had a falling out, didn't see eye to eye, and there  
12 appeared to be a lot of animosity between the two.

13 Q. So, let's talk about that animosity and what caused that.  
14 Did you learn about anything that Mr. Cantwell believed that  
15 Vic had done to him?

16 A. Yes. He believed that Vic was the primary instigator, I  
17 think is what he called him, of a harassment campaign against  
18 him.

19 Q. And did Mr. Cantwell believe that Vic Mackey had done  
20 anything to his website?

21 A. Yes. We ultimately learned -- Mr. Cantwell had filed a  
22 complaint with us, and in that he named Vic Mackey as having  
23 posted unauthorized content that defaced his website.

24 Q. Let's look at some of Mr. Cantwell's statements about Vic.

25 MS. KRASINSKI: Can we please show the witness only

1 what's been marked for identification as Government's Exhibit  
2 113.

3 THE CLERK: Can the witness put the screen back on?

4 THE WITNESS: Oh, I'm sorry.

5 THE CLERK: Thank you.

6 MS. KRASINSKI: If I'm the one doing the marking can  
7 the witness leave the privacy screen on?

8 THE CLERK: Yes, absolutely.

9 Q. Agent Tongbua, what is that?

10 A. This is an article that was posted to Mr. Cantwell's  
11 website.

12 Q. How do you know?

13 A. I personally have viewed it there, and it's also of the  
14 same format which I'm familiar with, which most of his articles  
15 where he would list the title, list the date, list the author  
16 and then the article.

17 Q. And who is the listed author?

18 A. It lists as Chris.

19 Q. And did you determine that Mr. Cantwell authored this?

20 A. Yes.

21 Q. How do you know?

22 A. So, again, he's the only admin. I know of on his site that  
23 lists Chris as the author. I'm not sure what else you're  
24 asking.

25 MS. KRASINSKI: Your Honor, I move to strike the

1 identification on Government's Exhibit 113.

2 THE COURT: Any objection?

3 MR. LEVIN: No objection.

4 THE COURT: Without objection, it will be admitted.

5 (Government's Exhibit No. 113 received into evidence)

6 MS. KRASINSKI: Permission to publish, your Honor?

7 THE COURT: Yes.

8 Q. Agent Tongbua, what is the title and date of this web  
9 posting?

10 A. Sorry for spam posts, February 11, 2019.

11 Q. And can you read that for us, please.

12 A. Yes. Last night, a bunch of posts were made to this  
13 website which may have seemed out of character. That is  
14 because they were made without authorization. Back in 2018, I  
15 gave an author's account to a guy who goes by the name of Vic  
16 Mackey. The site was not hacked. All of your data is safe. I  
17 just hadn't deleted Vic's account on the site because he never  
18 really contributed much content in the first place, and it  
19 slipped my mind. Eventually these losers will overdose on  
20 drugs or find a new man crush. Until then, I ask for your  
21 patience as I deal with what amounts to a spam problem.

22 Q. He called this a "spam problem"?

23 A. Correct.

24 Q. Any references to Cheddar Mane in this posting?

25 A. No.

1 Q. Any references to Cheddy Blac?

2 A. No.

3 Q. Any references to Mr. Lambert?

4 A. No.

5 MS. KRASINSKI: Let's look at another one of  
6 Mr. Cantwell's statements about Vic Mackey. Can we display for  
7 the witness only what has been marked for identification as  
8 Government's Exhibit 112.

9 Q. Agent Tongbua, do you recognize that?

10 A. Yes.

11 Q. What is it?

12 A. This is a post by Mr. Cantwell via his Gab account.

13 Q. How do you know?

14 A. Again, it's the same format known for Mr. Cantwell's Gab  
15 posts. You have the name there, Christopher Cantwell,  
16 @Cantwell, and this also corresponds to the previous article  
17 and the previous FBI complaint he made to us about his website.

18 MS. KRASINSKI: Your Honor, I move to strike the  
19 identification on Government's Exhibit 112.

20 THE COURT: Any objection?

21 MR. LEVIN: No objection.

22 THE COURT: Without objection, it will be admitted.

23 MS. KRASINSKI: Permission to publish, your Honor?

24 THE COURT: Yes.

25 (Government's Exhibit No. 112 received into evidence)

1 Q. Agent Tongbua, can you read what Mr. Cantwell wrote on his  
2 Gab account?

3 A. Today I submitted a criminal complaint to the FBI naming  
4 Vic Mackey and Mosin-Nagant for defacing my website last night.

5 Q. Any references to Cheddarman?

6 A. No.

7 Q. To Cheddy Blac?

8 A. No.

9 Q. To Ben Lambert?

10 A. No.

11 Q. During the course of the investigation did you determine  
12 whether Mr. Cantwell had filed a complaint with the FBI  
13 regarding vandalism to his website?

14 A. Yes, he did.

15 Q. When was that report made?

16 A. The report was made on February 11, 2019.

17 Q. Did you learn what happened to that complaint, how it was  
18 filed?

19 A. I did.

20 Q. Can you describe that to us, please?

21 A. So, it came in through our Internet Crimes Complaint  
22 Center, they call it the IC3, which means he basically  
23 submitted it online as opposed to calling, like, an 800 number.  
24 We did not receive that here in New Hampshire. I actually did  
25 not see that until Mr. Cantwell emailed that to us in July of

1       2019.

2       Q.     Have you since reviewed that complaint?

3       A.     Yes.

4       Q.     Did Mr. Cantwell complain that individuals had vandalized  
5           his website?

6       A.     He did.

7       Q.     Did he name anyone?

8       A.     He did.

9       Q.     Who did he name?

10      A.     He specified the same two individuals here, Vic Mackey and  
11           Mosin-Nagant.

12      Q.     That complaint he sent to the FBI, did it include any  
13           mention of Cheddar Mane?

14      A.     No.

15      Q.     Any mention of Chddy Blac?

16      A.     No.

17      Q.     Any mention of Ben Lambert?

18      A.     No.

19      Q.     And you said that was made in February of 2019?

20      A.     Correct.

21                  MS. KRASINSKI: So, let's take a look at one of Mr.  
22                   Cantwell's statements shortly after that. I want to show to  
23                   the witness only what has been marked for identification as  
24                   Government's Exhibit 303.

25      Q.     Do you recognize that?

1 A. Yes.

2 Q. What is it?

3 A. This is a Telegram chat featuring Mr. Cantwell and a  
4 couple of other --

5 MR. LEVIN: I'm going to object to this on relevance,  
6 your Honor.

7 THE COURT: This has been for identification only at  
8 this point.

9 So, lay the foundation without getting into the  
10 content, and then I'll hear the objection.

11 A. It's a conversation on Telegram with Mr. Cantwell and a  
12 couple of others regarding this dispute with Bowl Patrol.

13 Q. Where did this come from?

14 A. This was located on one of Mr. Cantwell's devices.

15 Q. What device was it located on?

16 A. I'm drawing a blank off the top of my head. It was either  
17 a desktop computer or an external hard drive recovered in his  
18 residence.

19 Q. But in either regard it came from one of Mr. Cantwell's  
20 devices?

21 A. Correct.

22 Q. And without getting into the content of the statements,  
23 how do you attribute the statements, some of these statements,  
24 to Christopher Cantwell?

25 A. Again, it was located on one of his devices. It lists the

1 user name, "Christopher Cantwell," it lists his known icon  
2 there, and the subject matter is consistent with other  
3 conversations on this matter.

4 MS. KRASINSKI: Your Honor, I would move to admit  
5 Government's Exhibit 303.

6 THE COURT: Do you have a relevance objection?

7 MR. WOLPIN: Yes, your Honor. It's undated. We don't  
8 know who Kaiser Peezy is, we don't know who the other people  
9 are and what they're referring to.

10 THE COURT: All right. I am going to instruct you to  
11 go on to a different subject. We can revisit this at the next  
12 break, if you remind me to do that.

13 MS. KRASINSKI: Yes, your Honor.

14 Q. I'm going to show you what's been marked, the witness  
15 only, what's been marked as Government's Exhibit 304. Do you  
16 recognize that?

17 A. Yes.

18 Q. What is it?

19 A. It is another Gab post by Mr. Cantwell.

20 Q. How do you attribute that to Mr. Cantwell?

21 A. So, again, the same format, same user icon, same name. It  
22 also contains the blue checkmark verification there.

23 Q. What is the blue checkmark verification?

24 A. As you see, well, it's also labeled a PRO account, and  
25 those PRO accounts come with a variety of enhanced features,

1 one of which is user verification.

2 Q. And is this from the Gab platform?

3 A. Yes.

4 Q. And where was this found?

5 A. Again, on one of Mr. Cantwell's devices.

6 Q. Agent Tongbua, would looking at a chart of images found on  
7 Mr. Cantwell's electronic devices that you prepared help  
8 refresh your recollection --

9 A. Yes.

10 Q. -- as to where this came from?

11 MS. KRASINSKI: If we could please display for the  
12 witness only what's been marked for identification as  
13 Government's Exhibit 300.

14 Q. Agent Tongbua, please take a look at that, and when you're  
15 ready we'll switch back to Exhibit 304.

16 A. (Witness complied). Okay.

17 Q. Does that refresh your recollection as to where  
18 Government's Exhibit 304, what device that came from?

19 A. Yes.

20 MS. KRASINSKI: All right. If we could please, again,  
21 display for the witness only Government's Exhibit 304.

22 Q. So, where did this come from?

23 A. This was found both on Mr. Cantwell's phone as well as an  
24 external hard drive that was found in a backpack in his  
25 bedroom.

1 Q. And in reviewing the data associated with this on  
2 Mr. Cantwell's phone, were you able to identify a creation  
3 date?

4 A. Yes.

5 Q. And what was that?

6 A. It was listed as March 17th, 2019.

7 MS. KRASINSKI: Your Honor, I move to admit  
8 Government's Exhibit 304.

9 THE COURT: Any objection?

10 MR. LEVIN: Objection. Relevance. Another undated  
11 post. The screenshot may have been created on March 17th, but  
12 the post itself is undated.

13 THE COURT: All right. The objection is overruled.  
14 It may be admitted.

15 (Government's Exhibit No. 304 received into evidence)

16 MS. KRASINSKI: Permission to publish, your Honor?

17 THE COURT: Yes.

18 Q. And let's enlarge the one posting. Agent Tongbua, can you  
19 read Mr. Cantwell's Gab statement here?

20 A. I have dox on several of these Bowl Patrol idiots, and I'm  
21 gonna start dropping them until they rat out Vic.

22 Q. Now, we've seen the term "dox" now twice, once in  
23 Government's Exhibit 100, and we've seen it now here. Can you  
24 tell us what that term means?

25 A. "Doxing" is an online practice of researching and publicly

1 releasing an individual's private information, typically with  
2 malicious intent.

3 Q. And during your investigation did you determine whether or  
4 not Mr. Cantwell has made any public statements about doxing?

5 A. Yes.

6 Q. Showing you, the witness now only, what has been marked as  
7 Government's Exhibit 101, can you please take a look at that.  
8 Agent Tongbua, do you recognize it?

9 A. Yes.

10 Q. What is it?

11 A. It is an article authored by Mr. Cantwell to his website  
12 regarding doxing and anonymity.

13 Q. What's the date of the article?

14 A. April 8th, 2018.

15 Q. And that's before the exchange that took place between  
16 Mr. Cantwell and Mr. Lambert?

17 A. Correct.

18 Q. And how do you attribute this to Mr. Cantwell?

19 A. Well, it's listed as, you know, ChristopherCantwell.com.  
20 I personally viewed it on that website. It's in the same  
21 format, with Christopher Cantwell at the top, Radical Agenda,  
22 lists the article title, date and author.

23 MS. KRASINSKI: Your Honor, I move to admit  
24 Government's Exhibit 101.

25 THE COURT: Any objection?

1                   MR. LEVIN: Objection. Relevance. This is from a  
2 year before the incident. It has nothing to do with the  
3 incident, nothing to do with the facts of this case.

4                   THE COURT: Overruled. It may be admitted.

5 (Government's Exhibit No. 101 received into evidence)

6                   MS. KRASINSKI: Now, permission to publish, your  
7 Honor?

8                   THE COURT: Yes.

9 Q. Let's go to the second page of this and the fourth  
10 paragraph that begins with, In this sense... Agent Tongbua,  
11 can you read Mr. Cantwell's statement about doxing here?

12 A. In this sense, it helps to think of doxing as a form of  
13 violence. It certainly carries the potential for violence to  
14 result, it is typically seen as a last resort, and, most  
15 importantly, real men understand that it is sometimes  
16 necessary.

17 Q. And can we turn to page 8 of Mr. Cantwell's article on  
18 doxing. And there's a bold sentence in the middle of that  
19 page. Agent Tongbua, can you read that for us?

20 A. Doxing is serious business.

21 Q. Now, let's go back to Government's Exhibit 100, the  
22 exchange between Mr. Cantwell and Mr. Lambert, and we were on  
23 page 2 of that exchange. Mr. Cantwell's second message on this  
24 page that begins with, Next time, Next time I post that photo,  
25 the faces won't be blurred, is public posting of photos, is

1       that a form of doxing?

2       A.     Absolutely.

3       Q.     Now, Mr. Cantwell's next statement in that includes, And  
4       I don't care if it's you causing the trouble. You're the one  
5       who's gonna suffer 'cause you're the one who I can get. During  
6       the course of your investigation did you understand what  
7       "causing the trouble meant," the trouble that Mr. Cantwell was  
8       referring to?

9       A.     I believe so. I believe it's the what he considered  
10      harassment that he thought was basically orchestrated by Vic  
11      Mackey.

12      Q.     Now, let's move on to the next page in this exchange, and,  
13      again, I'll just mark a number of messages here and ask you to  
14      confirm are those the statements made by Mr. Cantwell?

15      A.     Yes.

16      Q.     And what was Mr. Cantwell's first message on this page of  
17      the exchange?

18      A.     Fuck around and I'll remind you the hard way.

19      Q.     And let's look at Mr. Cantwell's next three messages.  
20      Agent Tongbua, can you read that first message for us?

21      A.     As a matter of fact, I don't. So if you don't want me to  
22      come and fuck your wife in front of your kids, then you should  
23      make yourself scarce.

24      Q.     What time did Mr. Cantwell send that message?

25      A.     6:41 p.m.

1 Q. Did Mr. Lambert respond directly to that message?

2 A. No.

3 Q. How long between when Mr. Cantwell sent that message and  
4 when Mr. Cantwell sent the next message?

5 A. Approximately a half an hour.

6 Q. And what was the next message that Mr. Cantwell sent?

7 A. Give me Vic, it's your only out.

8 Q. Did Mr. Lambert respond to that message?

9 A. No.

10 Q. How long after Mr. Cantwell said, Give me Vic, it's your  
11 only out, did Mr. Cantwell send the next message?

12 A. Approximately another hour.

13 Q. And what was Mr. Cantwell's message then?

14 A. I guess I'm going to have to prove my seriousness.

15 Q. Let's move to the next page of Government's Exhibit 100,  
16 and is this a continuation of what was on the previous page?

17 A. Yes.

18 Q. And, again, I will -- I've marked a number of statements.

19 Are those the statements that Mr. Cantwell made?

20 A. Yes.

21 Q. The image that you see here, the picture, what is that?

22 A. That is a picture of the Lambert family minus Mr. Lambert.

23 Q. And if we go back to the messages, what is the message  
24 that Mr. Cantwell writes just after sending the image of Mrs.  
25 Lambert and her children?

1 A. More where that came from.

2 Q. More where that came from. During the course of the  
3 investigation did you learn whether Mr. Cantwell did, in fact,  
4 have more pictures of Mr. Lambert or pictures of his family?

5 A. He did.

6 Q. How did you learn that?

7 A. They were discovered on his digital devices.

8 Q. Showing the witness only what has been marked for  
9 identification purposes as Government's Exhibit 301, Agent  
10 Tongbua, do you recognize that?

11 A. Yes.

12 Q. What is it?

13 A. That is a selfie or a digital photo of three individuals  
14 it looks to be at the Lambert residence.

15 Q. And so, is Mr. Lambert in this image?

16 A. Yes.

17 Q. And where was this image found?

18 A. On Mr. Cantwell's devices.

19 MS. KRASINSKI: Your Honor, I move to admit  
20 Government's Exhibit 301.

21 THE COURT: Any objection?

22 MR. LEVIN: No objection.

23 THE COURT: Without objection, it will be admitted.

24 (Government's Exhibit No. 301 received into evidence)

25 MS. KRASINSKI: Permission to publish, your Honor.

1                   THE COURT: Yes.

2 Q. Agent Tongbua, can you describe to us who's in the  
3 picture?

4 A. As you look at the picture, on the far left is Ben  
5 Lambert, a/k/a Cheddar Mane, Chddy Blac; in the middle is an  
6 individual named Katelen Fry, who goes by the online pseudonym  
7 of Peach; and on the right is Thomas Gibson, who goes by  
8 Hardmous or DJ Hardmous.

9 Q. And did you learn who Ms. Fry was in relation to  
10 Mr. Cantwell?

11 A. We did.

12 Q. And tell us about that.

13 A. During an interview with Mr. Cantwell, he told us that she  
14 was a former girlfriend of his, and at this time she had gone  
15 to visit Mr. Lambert at his residence.

16 Q. Do you know approximately when this visit took place?

17 A. Yes. It was around Thanksgiving 2018. I believe this  
18 photo is actually dated November 30th.

19 Q. And I'd like to show the witness only now what's been  
20 marked for identification purposes as Government's Exhibit 302.  
21 Agent Tongbua, do you recognize that?

22 A. I do.

23 Q. What is it?

24 A. Again, it's another digital photo or selfie of Mr.  
25 Lambert.

1 Q. And where was this image found?

2 A. Again, on the same digital devices, Mr. Cantwell's phone  
3 and the backup hard drive. I believe it was dated December  
4 1st, 2018.

5 MS. KRASINSKI: Your Honor, I move to admit  
6 Government's Exhibit 302.

7 MR. LEVIN: No objection.

8 THE COURT: It will be admitted, and it may be  
9 published.

10 MS. KRASINSKI: Thank you, your Honor.

11 (Government's Exhibit No. 302 received into evidence)

12 Q. And, again, Agent Tongbua, who is in this picture?

13 A. That is Mr. Benjamin Lambert.

14 Q. So, in addition to the two images we've just looked at of  
15 Mr. Lambert that were found on Mr. Cantwell's devices, did you  
16 learn whether Mr. Cantwell had other images of Mrs. Lambert?

17 A. He did.

18 Q. And did you learn what he did with those images?

19 A. He retained them. Ultimately, he did end up sending those  
20 to us. On at least one it shows the family in the kitchen of  
21 the residence.

22 Q. Did he ultimately use them to dox Mr. Lambert?

23 A. Yes.

24 MS. KRASINSKI: I'd like to show the witness only what  
25 has been marked for identification purposes as Government's

1       Exhibit 102.

2       Q.     Agent Tongbua, do you recognize that?

3       A.     Yes.

4       Q.     What is it?

5       A.     It is a post to the, what do you call it, Radical Agenda  
6       Telegram channel discussion group in which Mr. Cantwell posted  
7       unredacted photos of the Lamberts. This is the morning  
8       following the Telegram message exchange.

9       Q.     The morning following the Telegram message exchange. So,  
10      would that be June 17th, 2019?

11      A.     Yes, early in the morning on the 17th.

12      Q.     And how do you attribute this to Mr. Cantwell?

13      A.     Again, this is his Radical Agenda Telegram channel. You  
14      have his same icon, his same user name, and this is the channel  
15      of which he was known to be administrator.

16      Q.     And did he also provide you with copies of the images that  
17      you see here?

18      A.     Yes, he did.

19                  MS. KRASINSKI: Your Honor, I move to admit  
20      Government's Exhibit 102.

21                  THE COURT: Any objection?

22                  MR. LEVIN: No objection.

23                  THE COURT: It will be admitted and may be displayed.

24                  MS. KRASINSKI: Thank you, your Honor.

25                  (Government's Exhibit No. 102 received into evidence)

1 Q. Now, I want to focus first on the top. You've mentioned  
2 that this was the Radical Agenda Telegram channel. What is  
3 Radical Agenda?

4 A. That is both a website and a podcast that is hosted by  
5 Mr. Cantwell.

6 Q. Now, looking at what's next to Radical Agenda, do you see  
7 a number there?

8 A. Yes.

9 Q. What is that?

10 A. It says "293 ME" dot, dot, dot. It's generally a  
11 reference to 293 members.

12 Q. So, it's 293 members of that group?

13 A. Yes, at that moment in time.

14 Q. And what does Mr. Cantwell say before posting these  
15 images?

16 A. Here's the redacted parts.

17 Q. Now, we've discussed this first photo. Is that the same  
18 photo of Mrs. Lambert that Mr. Cantwell had sent to Mr. Lambert  
19 in their private exchange?

20 A. Yes.

21 Q. And so, what's the next image?

22 A. That's the photo I was referring to previously again of  
23 Mrs. Lambert with her children in their own kitchen.

24 Q. And let's go to the second page of Government's Exhibit  
25 102. And is there a third image that Mr. Cantwell posted?

1 A. Yes.

2 Q. And who is depicted in that image?

3 A. That's Ben Lambert.

4 Q. And I want to briefly look at the bottom statement of  
5 Mr. Cantwell that begins with, Like I said... Can you please  
6 read that to us.

7 A. Like I said, if I could just drive down to Twin Creek Road  
8 in Winfield, Missouri and shoot this idiot, I would. But I  
9 can't, so I'll let the law do it.

10 Q. And, again, what is Twin Creek Road in Winfield, Missouri?

11 A. That's the street on which the Lamberts live.

12 Q. I'd like to go back now to Government's Exhibit 100. We  
13 were on page 4 of that exhibit. So, we just discussed more  
14 where that came from. What's Mr. Cantwell's next post --  
15 message. Excuse me.

16 A. I bet one of my incel listeners would love to give her  
17 another baby.

18 Q. Are you familiar with the term "incel"?

19 A. I am.

20 Q. What does it mean?

21 A. It's an online slang term used to -- it's short for  
22 "involuntary celibate." It's a subculture of individuals,  
23 typically male, who can't find romantic or sexual success, even  
24 though they desire it, and they're often associated with  
25 repression, anger, aggression. They typically resent the

1       objects of their affection, and they promote violence towards  
2       those who find romantic or sexual success.

3       Q.     You've reviewed -- you've looked at Mr. Cantwell's  
4       website?

5       A.     Yes.

6       Q.     Before the date that he sent these messages in June of  
7       2019 had Mr. Cantwell ever publicly on his website discussed a  
8       link between those who believe the incel ideology and violence?

9       A.     Yes. He actually posted an article, I believe it was  
10      around April 2018, titled "Saints and Sinners," in which he  
11      discusses incels.

12      Q.     And did he mention that there is a real world thing to  
13      violence?

14      A.     Yes. He names a handful of individuals who have all  
15      committed heinous acts and who are self-proclaimed incels.

16      Q.     Back to this post, I'd bet one of my incel listeners would  
17      love to give her another baby, what does "listeners" refer to?

18      A.     So, again, referring to his followers, people who  
19      subscribe to his channels, listen to his shows.

20      Q.     And what is Mr. Cantwell's last statement on this page?

21      A.     You think the FBI would take issue with an LSD user owning  
22      guns around kids?

23      Q.     Let's go to page 5 of Government's Exhibit 100. And,  
24      again, I will -- I've marked five messages, four messages and  
25      one image. Were those messages and image sent by Mr. Cantwell?

1 A. Yes.

2 Q. And we've seen that image before. What is that?

3 A. Again, that's Mr. Lambert.

4 Q. And what does Mr. Cantwell say after he sends the image of  
5 Mr. Lambert?

6 A. Give me Vic.

7 Q. And what are the remainder of Mr. Cantwell's messages on  
8 this page?

9 A. LOL. Okay. I guess you're not going to give me what I  
10 want. Fine. Good luck.

11 Q. Let's move on to page 6 of Government's Exhibit 100. Are  
12 all but one of these messages sent by Mr. Cantwell?

13 A. Yes.

14 Q. The only message sent by Mr. Lambert is, I don't even have  
15 his dox?

16 A. Correct.

17 Q. So, let's go through Mr. Cantwell's statements on this  
18 page of Government's Exhibit 100. What's Mr. Cantwell's first  
19 message?

20 A. Guess you're fucked then.

21 Q. Does Mr. Lambert respond directly to that message?

22 A. No.

23 Q. How long between after writing that does Mr. Cantwell send  
24 his next message?

25 A. A little over half an hour.

1 Q. And what's that next message?

2 A. All right. Since you're obviously not understanding the  
3 severity of this, I'll do you a favor.

4 Q. What does Mr. Cantwell write next?

5 A. On Tuesday I'm going to send every episode of BowlCast  
6 along with your identifying information to whatever the local  
7 equivalent of CPS is in your jurisdiction.

8 Q. Now, did you learn whether Mr. Cantwell had, in fact,  
9 called Child Protective Services?

10 A. He did.

11 Q. And this message says, I'm going to send every episode of  
12 the BowlCast... Did you determine whether or not Mr. Cantwell  
13 did have copies of the BowlCast?

14 A. He did.

15 MS. KRASINSKI: I'd like to show the witness only what  
16 has been marked for identification purposes as Government's  
17 Exhibit 400.

18 Q. What is this?

19 A. So, this is a screenshot I took from one of our digital  
20 analysis software programs that lists the file names of the  
21 eight BowlCast episodes as well as created, accessed, modified  
22 date, times for them.

23 Q. And it's a screenshot you took from where?

24 A. From our digital review network.

25 Q. And what were you reviewing?

1 A. Mr. Cantwell's digital devices.

2 Q. So, this is a screenshot from the content of one of  
3 Mr. Cantwell's electronic devices?

4 A. Correct.

5 Q. And does it show a complete set of the BowlCast as you  
6 knew it to have existed at that point in time?

7 A. Yes.

8 MS. KRASINSKI: Your Honor, I move to admit  
9 Government's Exhibit 400.

10 THE COURT: Any objection?

11 MR. LEVIN: No objection.

12 THE COURT: Without objection, it will be admitted and  
13 can be displayed.

14 MS. KRASINSKI: Thank you, your Honor.

15 (Government's Exhibit No. 400 received into evidence)

16 Q. Now, if we look at the created date for most of these,  
17 Episodes 2 through 6, what is the created date of BowlCast  
18 Episodes 2 through 6?

19 A. On June 17th, 2019.

20 Q. And did that date have any relationship to this  
21 investigation?

22 A. Yes. That's the same date that Mr. Cantwell called CPS in  
23 Missouri.

24 Q. Now, only one of these episodes, BowlCast Episode 1, has  
25 any type of date associated with it that predates June 17th,

1       2019. What's the modified date of BowlCast 1?

2       A. April 5th, 2018.

3       Q. Did you find any evidence on any of Mr. Cantwell's devices  
4       that he had any of these BowlCast episodes other than BowlCast  
5       Episode 1 before June 17th, 2019?

6       A. No.

7       Q. And BowlCast Episode 1, is that the episode that  
8       Mr. Cantwell, himself, contributed to?

9       A. Yes, it was.

10      Q. And other than the statements he made to Mr. Lambert in  
11       the private message about calling CPS and the CPS call itself,  
12       Mr. Cantwell made additional public statements about calling  
13       Child Protective Services. Is that fair?

14      A. Yes.

15      Q. Let's go back to Government's Exhibit 102, and let's go to  
16       the second page of that exhibit. Agent Tongbua, can you read  
17       Mr. Cantwell's statement right after he posted the picture of  
18       Mr. Lambert.

19      A. That's Cheddar Mane a/k/a Cheddy Blac, and tomorrow  
20       morning I'm calling CPS to give them every episode of BowlCast  
21       and inform them that this acid-dropping fake Nazi is  
22       endangering those children with his behavior.

23      Q. Now, let's look at the third page of Government's Exhibit  
24       102, and let's call out Mr. Cantwell's next statements. Agent  
25       Tongbua, can you read that for us, please.

1 A. I think when CPS hears that fucking podcast he hosts,  
2 they'll pay his fucking criminal ass a visit. He's had ample  
3 warning, so I'm sure he'll get rid of the drugs before then and  
4 come up with suitable lies.

5 Q. And if we could call out Mr. Cantwell's final statement,  
6 can you please read that for us, Agent Tongbua.

7 A. I hope every CPS worker in Missouri is a Jew or a nigger,  
8 and I hope they break every rule and destroy this scumbag's  
9 life.

10 Q. Now, FBI obtained a record of the call that Mr. Cantwell  
11 did make to the Missouri Child and Protective Services,  
12 correct?

13 A. Correct.

14 Q. During the course of the investigation did you find any  
15 other copies of that recorded call?

16 A. Yes.

17 Q. Where?

18 A. I also found a copy on one of his devices.

19 Q. So, Mr. Cantwell recorded a copy of that conversation?

20 A. Correct.

21 Q. Let's go back to page 6 of Government's Exhibit 100. So,  
22 we've just talked a bit about the message that Mr. Cantwell  
23 sent at 9:18, the first message he sent at 9:18 p.m. Agent  
24 Tongbua, can you take us through the rest of those messages,  
25 please.

1       A. By Tuesday you should be able to talk to your wife and  
2       kids and get them to all have their stories straight, get  
3       anything incriminating out of the house. But I'm pretty sure  
4       once that visit comes, you'll understand that this is serious.  
5       If that doesn't work, I'll escalate until I get what I want.  
6       Tell Vic that if he gives himself up, he can save your family.  
7       He won't do it, but at least then you'll know certain that you  
8       chose the wrong side.

9       Q. Let's look at the next page of the messages between  
10      Mr. Cantwell and Mr. Lambert. I've placed an X next to four  
11      messages that all appear in green boxes. Are those Mr.  
12      Cantwell's messages?

13     A. Yes.

14     Q. Agent Tongbua, can you take us through those messages,  
15      please.

16     A. Okay, you got it. Tomorrow then, no sense in waiting  
17      until Tuesday. CPS will visit you soon, I'm not talking about  
18      listeners. Good luck.

19     Q. And let's look at the final page of this exchange. I'm  
20      attempting to clear my earlier -- there we go. Are there two  
21      messages sent by Mr. Cantwell on this page?

22     A. Yes.

23     Q. Both appear in green boxes?

24     A. Yes.

25     Q. And what's Mr. Cantwell's first message on this page?

1 A. Dumb niggers like you never are, until it's too late.

2 Have a goodnight.

3 Q. And after that Mr. Lambert responds with an offensive  
4 image?

5 A. Yes.

6 Q. Now, let's talk briefly about where Mr. Cantwell was when  
7 he sent these messages. Was there a pole camera installed  
8 outside of Mr. Cantwell's apartment?

9 A. There was.

10 Q. And, again, where was Mr. Cantwell's apartment?

11 A. In Keene, New Hampshire.

12 Q. What is a pole camera?

13 A. It's pretty much what it sounds like. It's a stationary  
14 camera placed in an area that's generally to take advantage of  
15 a public vantage point, so it's not aimed at anything private.  
16 It's not aimed to look into a person's residence, for example.  
17 It basically would have the same vantage point as an individual  
18 citizen or a law enforcement officer either walking down the  
19 street or standing on the sidewalk would have.

20 Q. And was it in operation between June 15th and June 17th of  
21 2019?

22 A. Yes, it was.

23 Q. And why was there a pole camera there?

24 A. Because there was already an ongoing investigation  
25 unrelated to this matter involving Mr. Cantwell.

1 Q. So, in preparation for your testimony today did you review  
2 the data that the pole camera captured between June 15th and  
3 June 17th of 2019?

4 A. I did.

5 Q. And did you create screenshots from that footage?

6 A. I did.

7 Q. Showing the witness only what has been marked for  
8 identification purposes as Government's Exhibit 600, Agent  
9 Tongbua, do you recognize that?

10 A. I do.

11 Q. What is it?

12 A. That's Mr. Cantwell's known vehicle. It's a black 2013  
13 Ford Taurus.

14 Q. Is this a screenshot you took from the pole camera footage  
15 from outside of his apartment?

16 A. Yes.

17 Q. And is this from around the time of this exchange?

18 A. Yes. It's dated June 14th.

19 MS. KRASINSKI: Your Honor, I move to admit  
20 Government's Exhibit 600.

21 MR. LEVIN: No objection.

22 THE COURT: It will be admitted, and it may be  
23 displayed.

24 (Government's Exhibit No. 600 received into evidence)

25 Q. Agent Tongbua, can you take a minute to orient us here,

1 first. What do we see?

2 A. So, the bottom of the screen you have, again,  
3 Mr. Cantwell's known vehicle. This would be the driveway to  
4 the residence. Generally speaking, that's probably eastbound,  
5 but the driveway goes up. There's a parking area, which you  
6 can sort of see behind the trees, and the actual residential  
7 building would be on the side where the trees are just out of  
8 view.

9 Q. So, we can't see the actual apartment?

10 A. Correct.

11 Q. And the area that I'm circling right here, is that what  
12 you were mentioning as the parking area?

13 A. Yes.

14 Q. Now, what was the date and time of this image?

15 A. It's June 14th, 2019, approximately 1:42 p.m.

16 Q. And you said that this is Mr. Cantwell's known vehicle.  
17 What vehicle is it?

18 A. Again, it's a black Ford Taurus. It's the vehicle that's  
19 registered to him with the New Hampshire Department of Motor  
20 Vehicles. It's the only vehicle we've ever seen him drive,  
21 seen it frequently at the residence.

22 Q. Have you ever seen anyone else drive that vehicle?

23 A. No.

24 Q. Let's turn -- actually, if you could look at -- I'll show  
25 the witness only what's been marked as Government's Exhibit

1       601, and then Government's Exhibit 603, Government's Exhibit  
2       605, and Government's Exhibit 608.

3                     Agent Tongbua, are all of those images that you just  
4       looked at, Government's Exhibit 601, 603, 605 and 608,  
5       screenshots of the pole camera footage that you took?

6       A.     Yes.

7       Q.     And are all of those from the pole camera that was outside  
8       of Mr. Cantwell's residence --

9       A.     Yes.

10      Q.     -- within this June 15th - June 17th, 2019 time frame?

11      A.     Yes.

12                     MS. KRASINSKI: Your Honor, I move to admit  
13       Government's exhibits 601, 603, 605 and 608.

14                     MR. LEVIN: No objection.

15                     THE COURT: They will be admitted and may be  
16       displayed.

17       (Government's Exhibit Nos. 601, 603, 605 and 608 received into  
18       evidence)

19       Q.     So, we'll just -- we'll work with -- we're looking at 601.  
20       What's the date and time of this?

21      A.     June 15th, 2019, just after noon.

22      Q.     And what do you see?

23      A.     You can make out the back rear right tire of Mr.  
24       Cantwell's vehicle, and that's in his usual parking spot, the  
25       very first spot.

1 Q. So, let's turn quickly to Government's Exhibit 603, and  
2 looking at Government's Exhibit 603 what do you see here?

3 A. Again, similar picture, same vehicle, but this is on the  
4 evening of June 16th, 2019, which was that Sunday, Father's  
5 Day, and this was approximately 5:19 p.m.

6 Q. And Government's Exhibit 605?

7 A. Again, similar, except for this one the vehicle is  
8 arriving, and this is on Monday, June 17th, 2019 at  
9 approximately or just after 5:00 a.m.

10 Q. And, finally, Government's Exhibit 608.

11 A. Same again. Vehicle departing on Monday, June 17th, 2019  
12 approximately 1:17 p.m.

13 Q. So, is it fair to say between June 14th, 2019 and June  
14 17th, 2019 the pole camera captured Mr. Cantwell's vehicle  
15 coming and going from his residence in Keene, New Hampshire?

16 A. Yes.

17 Q. All right. Let's switch gears. In September of 2019 did  
18 you interview Mr. Cantwell?

19 A. Yes, I did.

20 Q. And where did that take place?

21 A. At the Keene, New Hampshire Police Department.

22 Q. Who was there?

23 A. Myself, Task Force Officer Kevin LeBlanc and Sergeant Joel  
24 Chidester of Keene PD.

25 Q. And how was this interview arranged?

1       A. In coordination with Mr. Cantwell, both via email and both  
2 through Sergeant Chidester, who also had a dialogue with Mr.  
3 Cantwell, that was the location that he was most comfortable  
4 with. He didn't want to come to our office. And we worked  
5 around his schedule. At that time he was traveling back and  
6 forth frequently between New Hampshire and Maryland, and that  
7 was the date we worked out with him.

8       Q. Was the interview recorded?

9       A. No, it was not.

10      Q. Why not?

11     A. So, both sides expressed interest in recording it. We had  
12 a brief conversation beforehand. The room we were in had  
13 recording capabilities. Mr. Cantwell requested if he could get  
14 a copy of it that day. We told him, because it was an ongoing  
15 investigation, it might be a little bit of time before he could  
16 get a copy. He wasn't really comfortable with that. He  
17 requested to record with his own equipment. We weren't  
18 comfortable with that. So, the mutual agreement was that we  
19 would not record the interview.

20     Q. Now, when you met with Mr. Cantwell in September of 2019  
21 did you provide him sort of any guidelines before you spoke?

22     A. Again, it was a brief conversation, but we reiterated that  
23 he was there voluntarily and we were there to take his  
24 complaint and receive information from him, he was not being  
25 held against his will, he was not under arrest, therefore, he

1 was not read his rights, but he was free to talk as much or as  
2 little as he wanted, and he could terminate the conversation  
3 any time he wanted and not talk about anything he didn't want  
4 to talk about.

5 Q. Now, during this interview did Mr. Cantwell talk about  
6 Bowl Patrol?

7 A. He did.

8 Q. What did he say about their relationship?

9 A. Similar to what I've already explained. They had a, I  
10 wouldn't call it "partnership," but they were associates at one  
11 point before it went bad, and then now they had an ongoing  
12 dispute.

13 Q. Did he make any statements about Vic Mackey?

14 A. He did.

15 Q. What did Mr. Cantwell say about Vic Mackey?

16 A. At that time he did not know Vic Mackey's true identity.  
17 He believed him to be the ringleader of Bowl Patrol. He  
18 thought he was the main orchestrator, basically, of a  
19 harassment campaign against him. He said at one point he had  
20 given Vic admin. credentials to his website. He'd never  
21 received any direct threats from Vic, even though they didn't  
22 get along. They had no ongoing communications, and Mr.  
23 Cantwell had not retained copies of any of their previous  
24 communications.

25 Q. And at this point did Mr. Cantwell talk about Cheddar Mane

1 or Chddy Blac?

2 A. He did.

3 Q. And what did Mr. Cantwell say about Cheddar Mane or Chddy  
4 Blac?

5 A. So, again, at that time he did not know his true identity.  
6 He admitted to us that previously he had asked Cheddar for  
7 Vic's info and threatened to dox him and call CPS if he didn't  
8 provide it. He expressed that he later learned from others  
9 that that was extortion. He relayed to us that the photos he  
10 used in that exchange were actually provided by Katelen Fry,  
11 who we previously discussed. And, similarly, he said he had  
12 not, you know, received any direct threats from Cheddar, did  
13 not have any ongoing communications with Cheddar, and he denied  
14 having records of any of their previous communications.

15 Q. How long did that interview take?

16 A. Approximately three hours.

17 Q. In how much of that interview did Mr. Cantwell discuss  
18 Cheddar Mane or Chddy Blac?

19 A. It was pretty brief, probably five or ten minutes at the  
20 most. We talked about a wide variety of individuals during  
21 that time.

22 Q. Now, you've mentioned that Mr. Cantwell said he did not  
23 retain any records of their communications.

24 A. Correct.

25 Q. Let's take a look at some of what you found on Mr.

1 Cantwell's phone.

2 MS. KRASINSKI: Can we please show the witness what  
3 has been identified as Government's Exhibit 200, and we'll take  
4 a minute and scroll through that so Agent Tongbua has a chance  
5 to look at it.

6 Q. Do you recognize Government's Exhibit 200?

7 A. I do.

8 Q. What is it?

9 A. It's essentially like a spreadsheet. It's basically an  
10 excerpt from a report generated from our forensic analysis  
11 software, and in the report it's showing digital images, so  
12 files obtained from Mr. Cantwell's cell phone.

13 Q. And how was this report generated?

14 A. Through the forensic analysis software. You basically can  
15 go through and flag items of interest or evidentiary items, and  
16 then you go back and generate a report and export those items.

17 Q. And so, the data that's in this chart, the creation date,  
18 time, the file name, where does that all come from?

19 A. From the phone, from the device.

20 MS. KRASINSKI: Your Honor, I move to admit  
21 Government's Exhibit 200.

22 THE COURT: Any objection?

23 MR. LEVIN: Without objection, your Honor.

24 THE COURT: No objection, it will be admitted.

25 (Government's Exhibit No. 200 received into evidence)

1 MS. KRASINSKI: Permission to publish, your Honor?

2 THE COURT: Yes.

3 Q. So, Agent Tongbua, let's go through some of these, and  
4 first let's start with the headings. The first one is "Created  
5 date/time." What is that?

6 A. That's the way that the phone time stamped when that  
7 particular file was created.

8 Q. And the image, is it a copy of the image itself?

9 A. Yes.

10 Q. "File name." What's that?

11 A. Again, it's whatever, however the device was -- or the  
12 file was labeled inside the device. Excuse me.

13 Q. And external -- "external files." What does that mean?

14 A. It's a similar reference to where the item was stored  
15 within the device.

16 Q. And sort of generally, is it fair to say that the images  
17 that have been marked for identification as Government's  
18 Exhibit 201 through 226 are sort of the clear, more clear  
19 versions of the image as it is in this report?

20 A. Yes.

21 Q. So, let's go through this first image. What's the date,  
22 the creation date and time?

23 A. Are you looking at the image? Okay, the image. It's June  
24 16th, 2019, approximately 8:27 p.m.

25 Q. Now, this first image is text, right? What is that text?

1 A. So, the very first one is actually Mr. Lambert's address.

2 Q. And what type of file was that?

3 A. They're all JPEGs.

4 Q. What generally is a JPEG?

5 A. It's a digital image, a photo.

6 Q. And the next image?

7 A. That's Mr. Lambert.

8 Q. And what's the creation date and time of that?

9 A. It's the same, June 16th at 8:27 p.m.

10 Q. And what's the third image?

11 A. That is basically a screenshot of like a map plotting that

12 address at the top, the Lambert address.

13 Q. Is that something that Mr. Cantwell had sent to Mr.

14 Lambert?

15 A. No.

16 Q. But it does show a way to get to Mr. Lambert's address?

17 A. Yes. That's an accurate representation.

18 Q. Let's go to the next page of this. And are these the two

19 images of Mrs. Lambert that Mr. Cantwell published -- excuse

20 me -- publicly posted on the Radical Agenda Telegram group?

21 A. Yes.

22 Q. And the creation date and time of these images on

23 Mr. Cantwell's phone?

24 A. So, again, June 16th, 2019, 8:27 p.m.

25 Q. And let's go to the next page. These identical images

1       that we've seen before are again created in Mr. Cantwell's  
2       phone?

3       A.     Yes. They appear to be redundant images.

4       Q.     So, multiple copies of the same image?

5       A.     Yes, it appears so.

6       Q.     And the next page, again, more copies of the same images?

7       A.     Yes.

8       Q.     With approximately the same date and time, June 16th,  
9       2019?

10      A.     Yes, within a couple of minutes.

11      Q.     And the next page. Again, more copies?

12      A.     Yes.

13      Q.     With a similar creation date and time?

14      A.     Yes.

15      Q.     Now, if we go to the next page, what are the images we see  
16     here?

17      A.     So, these images are labeled as Screenshots, and they are  
18     similar to the very first set that we saw depicting the direct  
19     message Telegram exchange between Mr. Lambert and Mr. Cantwell.

20      Q.     What is a "screenshot"?

21      A.     It's capturing exactly what is on the screen at a given  
22     point in time.

23      Q.     So, it's the user capturing what is on the user's screen?

24      A.     Yes.

25      Q.     And so, the first two images that we see on this page, on

1 page 6 of Government's Exhibit 200, are those the first two  
2 portions of the messages between Mr. Cantwell and Mr. Lambert?

3 A. Yes, I believe so. The print's pretty small, but it looks  
4 right.

5 Q. What's the creation date and time of those?

6 A. June 16th of 2019, 9:42 p.m.

7 Q. And when did the exchange between Mr. Cantwell and  
8 Mr. Lambert end?

9 A. It concluded almost exactly that same time, on the same  
10 date.

11 Q. So, almost immediately after that conversation ended  
12 screenshots of the conversation from Mr. Cantwell's side were  
13 taken from Mr. Cantwell's phone?

14 A. It appears so.

15 Q. Let's go to page 7 of Government's Exhibit 200. Are those  
16 more screenshots of the same conversation?

17 A. Yes.

18 Q. Again, with the same creation date and time?

19 A. Very close, yes.

20 Q. Immediately after the conversation ended?

21 A. Yes.

22 Q. And page 8 of Government's Exhibit 200?

23 A. More of the same, yes.

24 Q. So, more screenshots of the conversation between Mr.  
25 Cantwell and Mr. Lambert?

1 A. Correct.

2 Q. And Government's Exhibit page 9 -- page 9 of Government's  
3 Exhibit 200?

4 A. More of the same, yes.

5 Q. More screenshots?

6 A. At the exact same time.

7 Q. More screenshots from Mr. Cantwell's phone of his  
8 conversation with Mr. Lambert?

9 A. Correct.

10 Q. Let's go to Government's -- excuse me -- page 10 of  
11 Government's Exhibit 200. What are we looking at here?

12 A. So, this would be, as we mentioned before, sort of the  
13 mirror image. These are identical to the screenshots that were  
14 actually posted online by Mr. Lambert.

15 Q. So, this is the conversation from Mr. Lambert's side, from  
16 Mr. Lambert's phone?

17 A. Correct, with little stickers added over the faces of his  
18 family.

19 Q. We'll go through this, and then we'll look at those a bit  
20 more clearly. What's the creation date and time of those?

21 A. This would be on Monday, June 17th, 2019, at approximately  
22 1:28 a.m.

23 Q. And so, if we go to page 11 of Government's Exhibit 200,  
24 what are those two images?

25 A. Additional screenshots in the same series.

1 Q. The conversation from Mr. Lambert's phone?

2 A. Correct.

3 Q. And, again, created on --

4 A. As they were posted publicly online.

5 Q. And, again, created on Mr. Cantwell's phone on June 17th,  
6 2019?

7 A. Correct.

8 Q. And if we look at the next page of Government's Exhibit  
9 200, what are those first two images?

10 A. A continuation of that same conversation.

11 Q. And I want to briefly go through the last few pages of  
12 this chart, this report generated from -- the cell phone  
13 extraction from Mr. Cantwell's phone. Are there more images of  
14 the exchange of these messages as it would have appeared on  
15 Mr. Cantwell's phone?

16 A. Yes, there were more taken at random dates and times, but  
17 they were kind of individualized screenshots versus like the  
18 whole set taken at once.

19 Q. Are these a different file types than the screenshots?

20 A. No. They're still JPEGs.

21 Q. Are they in a different file?

22 A. They're labeled different. They're not actually called  
23 "screenshots," so it's more like how they would appear if they  
24 were attachments to Telegram messages.

25 Q. And are these duplicates, essentially copies?

1 A. Yes.

2 Q. So, Mr. Cantwell actually had multiple copies of this  
3 conversation?

4 A. Yes.

5 THE COURT: Ms. Krasinski, I'm going to need to be  
6 taking a break sometime in the next five minutes or so, so if  
7 you want to go on you can, or we can take a break. It's up to  
8 you.

9 MS. KRASINSKI: Now would be a good time, your Honor.

10 THE COURT: All right. So, Members of the Jury, we'll  
11 take a break right now. I've got to give the court reporter a  
12 little bit of a rest, and then I've got to listen to something  
13 before I bring you back in, so it might be a little longer than  
14 our normal break. I'd ask my case manager, it's such a  
15 beautiful day, if any of you want to go outside and take your  
16 mask off, they can arrange for that to happen. I'll bring you  
17 back here as soon as I can after giving the court reporter a  
18 bit of a rest, and then I have to listen to the document they  
19 want me to listen to. So, we'll take a break right now.

20 THE CLERK: All rise.

21 (The jury exited the courtroom)

22 THE COURT: Just be seated for a second. So, my plan  
23 is to take a ten-minute break till 5 after 3:00, come back, and  
24 I'll listen -- first I want to listen to the excerpts that you  
25 propose to introduce as an exhibit; then I want to hear the

1 full audio exhibit; then I'll hear the defense argument as to  
2 why the rule of completeness requires that it all be played at  
3 one time and then your response. Okay? All right. We'll  
4 break for ten minutes.

5 THE CLERK: All rise.

6 (Recess taken from 2:54 p.m. to 3:07 p.m.)

7 THE CLERK: All rise for the Honorable Court.

8 THE COURT: Before I listen to the exhibits, I  
9 received a motion to reconsider from Mr. Freeman, who is the  
10 person from the public who wants to attend. I considered the  
11 proposal presented by the government, reviewed it with the  
12 staff and with my colleagues, and they were willing to allow  
13 Mr. Freeman to come into the building with a mask on and wear a  
14 mask in the public areas. He could then be escorted to a  
15 private room, where he could watch a live feed without his mask  
16 on, but he would have to agree to wear the mask when he's in  
17 the public areas. He is either not able or not willing to  
18 comply with that request, and he's asked me to reconsider my  
19 decision.

20 I thought about the matter carefully. I don't see any  
21 basis on which to reconsider the decision, and I am going to  
22 deny his request. He's asked me to provide a written ruling,  
23 but I don't have time to write a written ruling, I'm in the  
24 middle of a trial, and I've asked the Chief Deputy Clerk to  
25 communicate the ruling to him and explain the ruling, to

1 explain that I've made a ruling and analyzed the issue on the  
2 record in court so there is a record of my decision should he  
3 try to take some action to challenge it.

4 The next step for him would be, if he wanted to, would  
5 be to file a motion for writ of mandamus with the Court of  
6 Appeals. He's welcome to do that, but I do not have the time  
7 to sit down and write a written order in the middle of a trial,  
8 so I can't accommodate that request. But I am denying his  
9 original motion and his motion to reconsider, and he has  
10 rejected the option that I have given him, which is the only  
11 other alternative that I feel is appropriate and available to  
12 me under the circumstances. So, that's how I address that  
13 issue.

14 Now I'd like the government to play the short excerpts  
15 that it wishes to play of the -- and just to give me the  
16 background again on this, this is a telephone call that was  
17 recorded between the defendant and some romantic relationship?

18 MS. KRASINSKI: So, Mr. Cantwell recorded a  
19 conversation of himself with I believe at the time his  
20 ex-girlfriend. Her name is Katelen Fry.

21 THE COURT: Is this the person referred to as "Peach"?

22 MS. KRASINSKI: Yes, your Honor.

23 THE COURT: Okay.

24 MS. KRASINSKI: And it is, for the Court's knowledge,  
25 how Mr. Cantwell got this information that he used to then dox

1       Mr. Lambert. He got the address on some of the photographs  
2       from Ms. Fry.

3           THE COURT: When was the phone call made?

4           MS. KRASINSKI: It was December of 2019, your Honor,  
5       and Mr. Cantwell recorded this conversation of himself and then  
6       emailed that conversation to the FBI.

7           THE COURT: Okay. So, he recorded the full  
8       conversation and emailed the full conversation to the FBI?

9           MS. KRASINSKI: Correct, your Honor. And, in fact, he  
10       sent two versions to the FBI, one sort of as it was recorded,  
11       and one he tried to enhance the audio so that the sound was  
12       better.

13          THE COURT: Which version are you playing?

14          MS. KRASINSKI: I think the enhanced.

15          THE COURT: Excerpts from the enhanced version?

16          MS. KRASINSKI: I believe so, your Honor.

17          THE COURT: So, this is what exhibit number?

18          MS. KRASINSKI: So, this is Exhibits 105, 106, 107,  
19       108 and 109.

20          THE COURT: So, each excerpt is listed as a full  
21       exhibit?

22          MS. KRASINSKI: Correct, your Honor.

23          THE COURT: All right. So, you're going to play each  
24       of those exhibits in sequence?

25          MS. KRASINSKI: Correct, your Honor.

THE COURT: All right. Go ahead.

2 MR. DAVIS: Your Honor, would you like the  
3 transcripts?

4 THE COURT: Oh, you have transcripts?

5 MS. KRASINSKI: They're rolling on the call. We don't  
6 have transcripts of the full call, but we have transcripts of  
7 the --

8                   THE COURT: All right. I'll watch the rolling  
9 transcripts as they come up.

10 (Audio recording played)

11 THE COURT: Play the next exhibit.

12 (Audio recording played)

13 THE COURT: And the next one.

14 (Audio recording played)

15 THE COURT: And is there another? Okay.

16 (Audio recording played)

17 THE COURT: All right. Now can you play the whole  
18 call?

19 (Audio recording played)

THE COURT: All right. So, let me start by saying I could only make out one out of every three or four words that Peach was saying, so I have no idea what she was saying, because I can't tell based on what's been played for me as the full conversation, so I can't really comment on anything that she has said. Things that he has said, there may be one or two

1       lines that, in fairness, ought to be included in the excerpt,  
2       but I need a full transcript. So, the defense has to produce a  
3       full transcript and show me line by line.

4           I do not agree to the extent the defense says the  
5       entire conversation needs to be played. No, it does not. It  
6       simply is Mr. Cantwell providing his justification for what  
7       he's doing. Some of it that the government hasn't played is  
8       arguably more damaging to Mr. Cantwell than what the government  
9       has played, but for reasons that aren't apparent to me the  
10      government hasn't played those parts, and Mr. Cantwell wants to  
11      play them.

12           But, again, I think the parties have to bear in mind  
13      that it is not a defense to these charges to say, I was  
14      provoked. There's no provocation defense here. So, to the  
15      extent the parties are fighting about, Oh, I don't want the  
16      jury to hear that Mr. Cantwell was provoked, or, I don't want  
17      to the jury to hear that Mr. Cantwell was provoked, it's not a  
18      defense. So, I don't know why you're trying to keep it out and  
19      they're trying to put it in. In fact, the jury has already  
20      heard in the opening statements that Mr. Cantwell feels that he  
21      was provoked and he may well have been prompted to do these  
22      things in part by communications.

23           So, my reaction is I cannot rule on the completeness  
24      objection without seeing a transcript, because the ruling that  
25      I am inclined to make based on one quick listen is that there

1 may be two or three lines in there that you didn't include that  
2 probably should be included. The rest is just him providing  
3 his explanation as to why he went to the FBI, and that isn't  
4 necessary for the rule of completeness at all.

5 So, I'm going to suggest -- I will give the defense  
6 until tomorrow morning to present me with a full transcript of  
7 the entire communication, at which point the defense shall be  
8 prepared to argue with me line by line over what portions of  
9 the call should also be played out of the rule of completeness,  
10 and there may be a few sentences that I am willing to include,  
11 but the vast majority of the rest of it is not necessary to be  
12 played under the rule of completeness. Whether it can come in  
13 in the defense case for some other purpose I will reserve  
14 judgment on, but as simply a Rule 106 objection, it's quite  
15 clear to me that there's no reason to play the entire call to  
16 satisfy Rule 106, but there are likely some portions of the  
17 call that should be played. All right?

18 So, tomorrow morning -- don't put the excerpts in now.  
19 Tomorrow morning the parties will -- Mr. Levin can be here at  
20 9:00. Be here at 9:00, be prepared to argue that with me at  
21 9:00 so I can get a ruling on it before the jury comes in.  
22 Anybody have anything they want to say?

23 MS. KRASINSKI: Only, your Honor, could I have Agent  
24 Tongbua authenticate them? We obviously will not play them.  
25 We'll just say where they came from, generally that they are --

1                   THE COURT: He's going to be gone tomorrow, is your  
2 hope?

3                   MS. KRASINSKI: He'll be here, your Honor, but we hope  
4 his testimony to be concluded.

5                   THE COURT: Okay. Yeah, so we can do the  
6 authentication parts of it, and you can have him refer to  
7 exhibit number, not only to your exhibit numbers but also the  
8 additional exhibit number that the defendant wants to play, and  
9 just say, You've listened to 106 for identification. What is  
10 it? That's the full conversation. And Exhibits 1, 2, 3 and 4,  
11 what are those? Those are excerpts from the larger exhibit.  
12 And did you listen to the entire thing, and those are what you  
13 say? And then he can go off today, and then tomorrow I'll rule  
14 on which additional portions should be played, and the  
15 additional portions should be played all at one time.

16                  But the defense may have to be -- we may have to -- if  
17 I'm not likely to rule on the entire conversation being  
18 admissible under the rule of completeness, we're going to need  
19 to have the capacity to identify certain lines that might have  
20 to be played. Do you see what I'm saying? If I had a  
21 transcript I could point the parties to them, but they're just  
22 coming in and going by. I can't identify it without a  
23 transcript. But you're going to have to be able to play for me  
24 -- if I say that three lines from the defense exhibit are  
25 necessary for context, you're going to have to be able to play

1       those three lines. That's what I'm saying. All right?

2               Anything from the defense before we move on?

3               Mr. Davis, you want to say something?

4               MR. DAVIS: It's possible that Ms. Sheff has already  
5 typed a transcript of the full call. She needs to go upstairs  
6 to find out.

7               THE COURT: Could you provide it to me tonight? I  
8 could read it overnight and hear you in the morning on it.  
9 That would be good.

10              MR. DAVIS: Have we provided it to the defendant?

11              MR. WOLPIN: Not that I saw.

12              MS. SHEFF: I'll go check. I thought I did.

13              THE COURT: She'll check and let us know, and if it  
14 is, that will be helpful to me, but I also need a printed out  
15 transcript of your excerpts so I can compare the two, because  
16 what I basically will do is, I'll look at the excerpts you want  
17 to play. Then I'll go to the whole transcript, and I'll move  
18 above and below it and highlight anything that I think needs to  
19 come in under the rule of completeness.

20              MS. KRASINSKI: Your Honor, do you mind if I put hand  
21 sanitizer on my hands and remove the transcripts from my  
22 binder?

23              THE COURT: Do you have the actual clips in your  
24 binder?

25              MS. KRASINSKI: From the --

1           THE COURT: Yeah, that's fine. Hand them to the  
2 clerk. I'll read them tonight.

3           MR. DAVIS: Last thing, Judge. I just suggest if we  
4 resolve what additional sentences, say, are added, with another  
5 24 hours, and I'm sure we'll still be in trial, we could then  
6 make new clips, new transcripts and bring them in and play them  
7 all --

8           THE COURT: That would be the cleanest way to do it,  
9 if you are willing to delay the actual introduction until you  
10 get it all put together in a nice little package. I just want  
11 to make sure that anything the defendants are entitled to have  
12 in that package is there. And then I have no objection to the  
13 defendant being able to, if they have some other theory under  
14 getting it in in their case or for something, they can try to  
15 do that, but generally speaking a person's, a defendant's --  
16 statements that the defendant records himself and wants to  
17 introduce in his own case don't generally come in. So, if it's  
18 not admissible under the rule of completeness there may be some  
19 other theory under which he can get it in, but I'm not ruling  
20 on that. I'm just saying the rule of completeness allows this  
21 but not the rest. All right?

22           Anything else? I want to bring the jury back in and  
23 get as much testimony in as I can today.

24           MS. KRASINSKI: You asked us to remind you you wanted  
25 to go back to Government's 303. Would you like to do that now?

1 THE COURT: Yes. I didn't understand the -- I don't  
2 have it in front of me, but it references certain individuals.  
3 I didn't know who they were and how that was tied to this case.  
4 Can you put the exhibit -- you don't have your assistant here.

5 MS. KRASINSKI: Again, your Honor, I can put a copy of  
6 it somewhere.

7 THE COURT: Yeah, hand it up to me.

8 MS. KRASINSKI: 303. Excuse me. So, it appears  
9 that --

10 THE COURT: Wait just a second.

11 | (Pause)

12 THE COURT: Okay. So, who are Vanderguard (ph) and  
13 Heel (ph)?

14 MS. KRASINSKI: My understanding is they are other  
15 groups or online platforms that were associated with the Bowl  
16 Patrol.

17                   THE COURT: All right. And so, what you understand  
18 this communication to be is not only that he intends to go  
19 after the Bowl Guard but he intends to go after Vanguard (ph\_)  
20 and Heel (ph) as well. You want to get that in?

MS. KRASINSKI: No. I think the relevancy for this is  
more motive of his desire to go after Bowl Patrol members that  
he believed harmed him. The only reference to Vanguard (ph)  
and the other platform is because they were associated with the  
Bowl Patrol.

1                   THE COURT: You've got abundant evidence already in  
2 the record that he's upset with the Bowl gang, Bowl Patrol, and  
3 he hasn't denied it. He's saying he was upset with the Bowl  
4 Patrol, so this doesn't add anything to the discussion at all.  
5 I think to the extent it's relevant at all for that purpose,  
6 its cumulativeness substantially outweighs its probative value,  
7 and so I'm going to sustain the relevance objection. I'm going  
8 to add to the relevance objection and say under Rule 403 the  
9 cumulativeness of it outweighs any, substantially outweighs any  
10 possible relevance. So, I will sustain the defendant's  
11 objection to this exhibit.

12                  MS. KRASINSKI: Yes, your Honor. And because we don't  
13 have Ms. Sheff back, the thing that I was going to do next with  
14 Agent Tongbua was have him review a group exhibit and in  
15 conjunction with discussing it with counsel have him review  
16 them and admit them as a group. Is it possible --

17                  THE COURT: I shouldn't have let her leave the room,  
18 should I?

19                  MS. KRASINSKI: So, again, I do have hard copies  
20 outside of the presence of the jury. I'd be happy to, again,  
21 sanitize my hands.

22                  THE COURT: These are admitted -- these are ID  
23 exhibits or admitted exhibits?

24                  MS. KRASINSKI: They are ID exhibits. I think what we  
25 had discussed was having the agent go through them. It's a

1 grouping of them, 201 through 226, with the agent. We would  
2 ask the agent to review them and authenticate them as a group.  
3 So, I can ask him to do that with a hard copy here so that we  
4 can get the jury back in and get going.

5 THE COURT: Yeah, I guess so. So, bring the jury back  
6 in. They aren't going to be shown to the jury at this point.

7 MS. KRASINSKI: Correct. And, with the Court's  
8 permission, I can take them up to the witness now.

9 THE COURT: Yes, hand them up now.

10 MS. KRASINSKI: Thank you, your Honor.

11 THE COURT: All right. Now we can bring the jury in.  
12 But at this point they're just going to do it for ID,  
13 so I'm fine with it.

14 So, my case manager notes that, if you want, once they  
15 are admitted, you can use the document camera and display the  
16 hard copy exhibit to the jury using the document camera if your  
17 paralegal isn't back by then.

18 MS. KRASINSKI: Okay. Thank you, your Honor.

19 THE CLERK: All rise for the jury.

20 (The jury entered the courtroom)

21 THE CLERK: Please be seated. This hearing is back in  
22 session.

23 THE COURT: Please proceed. Ms. Krasinski, I see your  
24 paralegal is back, so you can use the camera if you want.

25 Q. Agent Tongbua, you are looking at what has been marked for

1 identification purposes only as Government's Exhibit 201 to  
2 226. Why don't you take a minute and flip through those and  
3 let me know when you're done.

4 A. (Witness complied). Okay.

5 Q. Are those the images that are included in Government's  
6 Exhibit 200, the report generated from the defendant's cell  
7 phone extraction of images from his phone?

8 A. Yes.

9 Q. And are those true and accurate copies of the images from  
10 the defendant's cell phone?

11 A. Yes.

12 MS. KRASINSKI: Your Honor, I move to admit  
13 Government's Exhibits 201 through 226.

14 THE COURT: Any objection?

15 MR. LEVIN: No objection, your Honor.

16 THE COURT: They'll be admitted and can be displayed  
17 using the computer evidence presentation system.

18 (Government's Exhibit Nos. 201 through 226 received into  
19 evidence)

20 MS. KRASINSKI: Thank you, your Honor.

21 Q. We're only going to look at a few of them right now.  
22 Let's start by looking at Government's Exhibit 218. Agent  
23 Tongbua, what is this?

24 A. So, again, this is the other version of the Telegram  
25 message exchange between Mr. Cantwell and Mr. Lambert. This

1 would be as Mr. Lambert viewed it, and this would be the copy  
2 that was posted publicly, because it contains the stickers that  
3 covers up private information.

4 Q. Now, you say, Stickers that covers up private information.  
5 Are you talking about here this square that says, I believe,  
6 Sassy, sassiest boys?

7 A. Yes. Yeah, a sticker, a little picture, icon, whatever  
8 you want to call it.

9 Q. And essentially is that an attempt to redact personal  
10 information?

11 A. Correct.

12 Q. And other than these sort of redactions, are the messages  
13 themselves the same as from Cantwell's side of the exchange?

14 A. Yes.

15 Q. And so, if we look, for example, at Government's Exhibit  
16 214, again, is this a portion of the exchange from Mr. Lambert  
17 as it would have been on Mr. Lambert's phone?

18 A. Yes.

19 Q. And you see the images that cover up Mrs. Lambert's face?

20 A. Yes.

21 Q. And the children's faces?

22 A. Yes.

23 Q. Those would not have appeared in the original?

24 A. Correct.

25 Q. And so, did Mr. Cantwell have a complete set of the mirror

1       image, the conversation, the messages as they would have  
2       appeared on Mr. Lambert's phone?

3       A.     Yes.

4       Q.     Now, I want to -- we're going to briefly discuss a  
5       telephone -- a copy of a recorded call that you received.  
6       During the course of this investigation did Mr. Cantwell email  
7       you a recording?

8       A.     He did.

9       Q.     And generally, without telling us the contents of that  
10      recording, who were the parties to it?

11      A.     It was Mr. Cantwell and Katelen Fry.

12      Q.     And who recorded the conversation?

13      A.     I believe Mr. Cantwell did.

14      Q.     So, Mr. Cantwell sent you a recording of a conversation  
15      with him and Ms. Fry?

16      A.     Correct.

17      Q.     How did he send that to you?

18      A.     I believe it was via email.

19      Q.     And did you listen to the entire call between Mr. Cantwell  
20      and Ms. Fry?

21      A.     Yes.

22      Q.     And have you also reviewed what has been marked for  
23      identification as Government's Exhibit 105?

24      A.     Would you refresh my memory what that is?

25                   MS. KRASINSKI: Can we show the witness only what has

1       been marked for identification as Exhibit 105A?

2           THE COURT: Are you going to try to deal with the  
3        excerpts from the audio call? Is that what you're trying to  
4       do?

5           MS. KRASINSKI: Yes, your Honor.

6           THE COURT: All right. Maybe we can do this in a  
7        shorthand way. We simply want the witness to identify the fact  
8       that he has listened to the entire call, he has listened to the  
9       excerpts, and each of the excerpt exhibits is, in fact, a  
10      portion of the telephone call which is -- what's the exhibit  
11      that has the entire call on it?

12        MR. WOLPIN: B16, your Honor.

13        THE COURT: I'm sorry?

14        MR. WOLPIN: B16, your Honor.

15        THE COURT: B16?

16        MR. WOLPIN: Correct.

17        THE COURT: So, Exhibit B16 is the entire recorded  
18       telephone call, and then we have a series of government  
19       exhibits, which are what?

20        MS. KRASINSKI: 105, 106, 107, 108 and 109.

21        THE COURT: Can we stipulate that those excerpts are,  
22       in fact, excerpts of the larger, the full call that is the  
23       defense exhibit?

24        MR. WOLPIN: Yes, your Honor.

25        THE COURT: So, the parties have stipulated to that.

1       So, I'm trying to save everyone some time here, Members of the  
2       Jury. What has happened is there is a full recording of the  
3       telephone call that has been marked as a defense exhibit, there  
4       are excerpts of that phone call, a series of them, that are  
5       government exhibits, and the parties have stipulated that the  
6       excerpts, the government exhibits that are excerpts are, in  
7       fact, excerpts of the full call.

8                   So, if you can just establish and authenticate that  
9       this witness is familiar with the full call, then we can move  
10      on and deal with what we play, if at all, to the jury of that  
11      call tomorrow after we've had a chance to finish our review.

12                  MS. KRASINSKI: Thank you, your Honor.

13                  Q.     The call between Mr. Cantwell and Ms. Fry, do you  
14      recognize any voices in that call?

15                  A.     Yes.

16                  Q.     Tell us about that.

17                  A.     I recognize Mr. Cantwell's voice from hearing it many  
18      times in his different shows and speaking with him in person,  
19      and the recording was provided to us by him, and in his  
20      admission he indicated --

21                  Q.     I don't want to go into the contents of the call.

22                  A.     No. I was just going to say that the person he is  
23      speaking with was Katelyn Fry.

24                  Q.     Okay. And you may not know the exhibits numbers, but  
25      you've reviewed all of the government's portions of that call?

1 A. Correct.

2 Q. And, again, they just involve Mr. Cantwell and Ms. Fry?

3 A. Correct.

4 Q. And approximately when did you receive the email  
5 containing this recorded call from Mr. Cantwell?

6 A. This would have been in early December 2019.

7 Q. Thank you. Now, the last thing I want to talk with you  
8 about is what's been marked for identification as Government's  
9 Exhibit 700. Agent Tongbua, do you recognize that?

10 A. I do.

11 Q. What is it?

12 A. So, this is basically a chronological timeline that I  
13 created, which is a composite of information obtained from  
14 Mr. Cantwell's digital devices with the addition of, obviously,  
15 the last column just to document items that he provided to us.

16 Q. And so, where does the information in this demonstrative  
17 exhibit come from?

18 A. The factual information, such as the date, time, the file  
19 names, which is under an event artifact, or the sources would  
20 be primarily digital evidence, but there is also sprinkled in a  
21 few items such as surveillance notes, but those are dictated or  
22 labeled as appropriate.

23 Q. And you prepared this chart?

24 A. Correct.

25 MS. KRASINSKI: Your Honor, I move to admit

1       Government's Exhibit 700.

2           THE COURT: Is there objection?

3           MR. LEVIN: Yes, your Honor. I object under Rule  
4 1006. Under Rule 1006, a proponent may use a summary chart or  
5 calculation to prove the content of voluminous writings,  
6 recordings or photographs that cannot be conveniently examined  
7 in court. The items on this list are discrete enough that they  
8 can be. I don't think a chart is necessary. So, we would  
9 object pursuant to that rule.

10          THE COURT: Are those items, in fact, in evidence at  
11 this point?

12          MS. KRASINSKI: Many of the items -- some of these  
13 items are in evidence at this point, some are not, your Honor.

14          THE COURT: All right. I will reserve judgment on  
15 this. I will hear argument on it from the parties after we  
16 finish with the evidence for the day. To the extent it is  
17 admitted into evidence, it could be allowed to be displayed to  
18 the jury as a chalk, but if it is, in fact, a summary of  
19 voluminous documents, I may admit it as a full exhibit, but I  
20 need to know more about it, and I don't want to take the time  
21 to do it now.

22 Q. When you reviewed Mr. Cantwell's cell phone did you also  
23 review call data?

24 A. I did.

25 Q. And did you note any calls that occurred around the time

1 of the message exchange between Mr. Cantwell and Mr. Lambert or  
2 after?

3 A. I noted calls around the time of the exchange. I do not  
4 recall calls between Mr. Lambert and Mr. Cantwell.

5 Q. And did Mr. Cantwell tell you where he got the information  
6 to dox Mr. Lambert?

7 A. He indicated he got the photos and the address from  
8 Katelen Fry.

9 Q. Are there any calls between Mr. Cantwell and Ms. Fry?

10 A. Yes.

11 Q. Tell us about that.

12 A. Specifically I know there was a call on the morning of  
13 June 17th, early that morning, approximately 1:27, 1:28 a.m.  
14 It's just before the creation times that you see for the set of  
15 images as they were posted online publicly.

16 Q. So, right around the time the images, the messages as they  
17 would appear on Mr. Lambert's phone were created on Mr.  
18 Cantwell's phone he has a call with his Ms. Fry?

19 A. Correct.

20 MS. KRASINSKI: The Court's indulgence for one moment.

21 (Pause)

22 MS. KRASINSKI: I have nothing further, your Honor.

23 THE COURT: Thank you. If we need to have further  
24 direct testimony about the chart that's the subject of the past  
25 objection, I can receive it later on. With that, we'll allow

1 cross-examination.

2 Mr. Levin.

3 MR. LEVIN: Thank you, your Honor.

4 THE COURT: Are you going to examine from the back?

5 MR. LEVIN: I'm going to move to this podium right  
6 next to me.

7 THE COURT: Perfect.

8 CROSS-EXAMINATION

9 BY MR. LEVIN:

10 Q. Agent Tongbua -- is it Tongbua?

11 A. Yes, that's correct.

12 Q. The events described in the indictment, the alleged  
13 threats and cyberstalking, those are alleged to have occurred  
14 in June 2019; is that right?

15 A. Yes.

16 Q. So, this wasn't this past summer but the summer before; is  
17 that right?

18 A. Correct.

19 Q. And at that time Chris Cantwell was already on your radar;  
20 is that right?

21 A. Yes.

22 Q. You had been investigating him prior to that?

23 A. Yes.

24 Q. You had surveilled him; is that right?

25 A. Yes.

1 Q. In fact, even before you knew about the incidents that are  
2 described in the indictment you were surveilling him?

3 A. Yes.

4 Q. Is that right? You had set up pole cameras outside his  
5 house; is that right?

6 A. Yes.

7 Q. You had subpoenaed various documents relating to him?

8 A. Yes, we had.

9 Q. And that investigation had gone back six, seven months  
10 prior to June 2019?

11 A. It went back further than that. That's when I took over  
12 as the lead case agent, yes.

13 Q. That's when you took over the investigation?

14 A. Correct.

15 Q. So, that would have been towards the end of 2018?

16 A. Correct.

17 Q. In fact, Mr. Cantwell was observed on the days of the  
18 alleged incidents, on June 15th, 16th and 17th, by your people;  
19 is that right?

20 A. Yes.

21 Q. Actually surveilled with the pole cameras?

22 A. Correct.

23 Q. And prior to June of 2019 Bowl Patrol was also on the  
24 FBI's radar; is that right?

25 A. How do you mean?

1 Q. Well, individual members of the Bowl Patrol were known to  
2 the FBI?

3 A. Yes, that's fair to say.

4 Q. And individual members of Bowl Patrol were persons of  
5 interest to the FBI?

6 A. Yes, that's fair.

7 Q. And particularly as it relates to investigations of white  
8 supremacists and domestic terrorists?

9 A. Yes, that's fair.

10 Q. Now, white racially motivated extremism, that's a subject  
11 of interest, a current priority for the FBI; isn't that right?

12 A. I believe so.

13 Q. And something which the FBI Director has testified about  
14 in Congress?

15 A. He has.

16 Q. And that's your area; is that right?

17 A. Not specifically, not solely that.

18 Q. You're not assigned to the Joint Terrorism Task Force?

19 A. I am.

20 Q. You are? So, that's your area, is that not?

21 A. It's one of them.

22 Q. Yeah. You indicated that with regard to the Bowl Patrol  
23 that Vic Mackey was known as the leader of the Bowl Patrol; is  
24 that right?

25 A. Yes.

1 Q. And Cheddar Mane was known as a member of the Bowl Patrol;  
2 is that right?

3 A. Yes.

4 Q. Now, prior to June of 2019 you were aware that Mr.  
5 Cantwell was communicating with local law enforcement about  
6 harassment he received?

7 MS. KRASINSKI: Objection.

8 THE COURT: Basis?

9 MS. KRASINSKI: Relevance and hearsay.

10 THE COURT: Overruled at this point. We'll go  
11 question by question.

12 Q. You had been in contact with the Keene Police Department;  
13 is that right?

14 A. Yes.

15 Q. You were in contact with Sergeant Joel Chidester?

16 A. Yes.

17 Q. You knew that Mr. Cantwell had approached local law  
18 enforcement about harassment he had received?

19 A. Yes.

20 Q. You understood that Mr. Cantwell had approached the Keene  
21 Police Department about harassment by members of the Bowl  
22 Patrol?

23 A. Up to that point he spoke with Keene PD about a lot of  
24 harassment. I don't know that a lot of that information was  
25 focused on Bowl Patrol, but I'm sure some of it was.

1 Q. Information communicated by Mr. Cantwell with Keene Police  
2 Department about attacks on his website?

3 A. Sure, yes.

4 Q. About anonymous phone calls that he got that were clogging  
5 up the lines to his shows?

6 A. Yes.

7 Q. And you indicated in your testimony that Mr. Cantwell had  
8 also made a complaint to the FBI online about harassment by the  
9 Bowl Patrol?

10 A. Right, which I had not learned about at that time, not  
11 prior to June.

12 Q. Excuse me?

13 A. I had not learned about that prior to June in 2019.

14 Q. You didn't know about that?

15 A. Correct.

16 Q. That information had not come back to you?

17 A. Correct.

18 Q. But you subsequently learned that he had made a complaint  
19 to the FBI about harassment by the Bowl Patrol in February of  
20 2019?

21 A. Yes.

22 Q. Now, you indicated that during that period you were  
23 investigating Mr. Cantwell?

24 A. Correct.

25 Q. And during the same period that you were investigating

1       Mr. Cantwell he's making complaints to the FBI; is that right?

2       A.     He made a complaint that I'm aware of.

3       Q.     Right. But that information never made it back to you?

4       A.     That's correct.

5       Q.     There's no system within the FBI, when a person that  
6       you're investigating actually approaches the FBI for help, to  
7       funnel that information back to the person who's investigating?

8       A.     It is possible. Sometimes that does happen. It did not  
9       happen in this case.

10      Q.     It didn't happen in this case. Now, you understood before  
11     June of 2019, you knew that Mr. Cantwell had been in touch with  
12     Keene PD?

13      A.     Correct.

14      Q.     And Keene PD was in touch with you about their contacts  
15     with Mr. Cantwell?

16      A.     Correct.

17      Q.     And ultimately Officer Chidester referred Mr. Cantwell to  
18     the FBI; is that right?

19      A.     Yes, when the matter exceeded his normal capacity.

20      Q.     When the matter exceeded his normal capacity. So, when  
21     Sergeant Chidester realized that Mr. Cantwell was complaining  
22     about threats and harassment coming from outside the state, he  
23     suggested to Mr. Cantwell that he not -- that he might want to  
24     seek the help of the FBI?

25           MS. KRASINSKI: Objection. Hearsay.

1                 THE COURT: Sustained. There hasn't been a basis of  
2 knowledge elicited.

3 Q. When you indicated, When it exceeded his capacity, what  
4 did you mean by exceeded his capacity?

5                 THE COURT: First demonstrate that the witness has  
6 personal knowledge of that which he's speaking about.

7 Q. Okay. Did you have communications with Sergeant Chidester  
8 about Mr. Cantwell?

9 A. Yes.

10 Q. Prior to June of 2019?

11 A. Yes.

12 Q. Did you understand from Sergeant Chidester that Chris  
13 Cantwell was having issues with harassment and defacement of  
14 his website?

15 A. I recall exchanging emails with Joel, and I recall  
16 receiving information about harassment. I cannot definitively  
17 say that the website defacement was relayed to us. I know  
18 that, again, it was a lot of different harassment, did involve  
19 spam phone calls, some of which, though, could be attributed to  
20 local folks around the Keene area. And so, again, it wasn't  
21 till around the summertime they began to talk about Bowl Patrol  
22 and other things.

23 Q. So, how is it that you understood that Sergeant Chidester  
24 had reached his capacity?

25 A. Because at that time he was talking about things that

1        might have involved an interstate nature, because at that time,  
2        around June, June, July is when he started to mention things  
3        like the Bowl Patrol.

4        Q.        And that's when he referred Chris Cantwell to the FBI?

5        A.        Correct.

6        Q.        And encouraged Chris Cantwell to contact the FBI?

7        A.        I wouldn't say "encourage." He just provided -- depending  
8        on his seriousness and how far he was willing to pursue it,  
9        there's only so much the Keene Police Department could do for  
10      him.

11      Q.        And ultimately Mr. Cantwell did contact the FBI?

12      A.        Actually, we contacted him.

13      Q.        You contacted him?

14      A.        Yes.

15      Q.        Called him on his phone?

16      A.        Yes.

17      Q.        And had a phone conversation with him?

18      A.        Yes.

19      Q.        And then there was an email exchange, was there not?

20      A.        Yes.

21      Q.        And then at some point there was an in-person interview?

22      A.        Yes.

23      Q.        And at that interview, that was in September of 2019, Mr.  
24        Cantwell was accompanied -- that interview took place at the  
25        Keene Police Department; is that right?

1 A. Correct.

2 Q. And Sergeant Chidester was at that interview as well?

3 A. Yes, he was.

4 Q. And are you aware of whether Mr. Cantwell asked him to be  
5 present there?

6 A. I believe so. I believe that was the agreement. Either  
7 that or Sergeant Chidester offered to be there. I don't really  
8 remember exactly how it happened.

9 Q. Now, in his complaint, his online complaint in February  
10 2019, Mr. Cantwell named the Bowl Patrol member who went by the  
11 name of Vic Mackey as someone he suspected of harassing him; is  
12 that right?

13 A. I missed the first part. That was the IC3 complaint in  
14 February?

15 Q. Yeah, the online FBI complaint.

16 A. Yes, that's correct.

17 Q. And also a person who went by the name of Mosin-Nagant; is  
18 that right?

19 A. Correct.

20 Q. M-o-s-i-n, N-a-g-a-n-t?

21 A. Yes.

22 Q. So, at the same time that Mr. Cantwell was talking to you  
23 and other members of the FBI, the Bedford office, talking to  
24 Sergeant Joel Chidester about harassment and pranks by unknown  
25 persons as well as members of the Bowl Patrol, at the same time

1       that was going on you were also investigating him; is that  
2 right?

3       A.     Yes.

4       Q.     Prior to the June 19th incident and then after the June  
5 19th incident?

6       A.     Correct.

7       Q.     And you had no problem with the concept that Mr. Cantwell  
8 might also have been a victim of harassment; is that right?

9       A.     Yes. It's not impossible for a person to be both a  
10 subject and a victim at the same time.

11      Q.     And you took his complaints seriously as a victim of  
12 harassment?

13      A.     We did.

14      Q.     And you had email exchanges with him about harassment and  
15 attacks?

16      A.     Yes, we did.

17      Q.     You tried to get more information from him about the  
18 individuals that he believed were attacking him and attacking  
19 his website?

20      A.     We did.

21      Q.     And ultimately you did determine that there had been  
22 harassment of Chris Cantwell by members of the Bowl Patrol?

23      A.     We determined there was definitely a back and forth; there  
24 was definitely a running dispute between both parties.

25      Q.     You found evidence of actual harassment, though; is that

1 right?

2 A. We definitely have call logs. I mean, there were spam  
3 calls. We have his record of his website defacement. I'm not  
4 sure what specific harassment you're referring to.

5 Q. You testified in the grand jury on January 22nd of 2020;  
6 is that right?

7 A. Yes.

8 Q. I'm going to show you an excerpt from your --

9 MR. LEVIN: If I could use the ELMO?

10 THE COURT: I wonder does that need to be disinfected?

11 MR. LEVIN: I won't touch it.

12 THE COURT: Well, I think if we have to set it up you  
13 probably do. Did anybody from the government touch the  
14 document camera? All right. So, you can go up to the document  
15 camera and manipulate it as necessary to display what you want  
16 to display. Are you asking to show him something that's not in  
17 evidence for purposes of impeachment?

18 MR. LEVIN: Yes.

19 THE COURT: So, this could be shown to the witness  
20 only. Go ahead.

21 Q. I just want you to, if you could, read to yourself the  
22 question and then the answer. Are you able to see that?

23 A. Yes. So, you want me to read the question first?

24 Q. Just to yourself.

25 A. Okay.

1 Q. There's a question and then there's two answers.

2 A. (Witness complied).

3 Q. Tell me when you're at the bottom of the page.

4 A. Okay. I'm good.

5 Q. And just the end of the -- just up to the bottom of that  
6 answer.

7 A. (Witness complied). Okay.

8 Q. So, when you testified in the grand jury you were asked,  
9 were you not, whether you found evidence of actual threats  
10 against Cantwell by members of the Bowl Patrol; is that right?  
11 And you answered, No direct threats, but there were phone  
12 calls, there was harassment; is that right?

13 A. Yes.

14 Q. And you testified that they made memes and edited  
15 different photos of him making fun of him; is that right?

16 A. Yes.

17 Q. And made a song about him?

18 A. Yes. And all of that I believe can be attributed to Bowl  
19 Patrol.

20 Q. What's that?

21 A. I believe those items can be attributed to Bowl Patrol --

22 Q. Right.

23 A. -- not some of the other harassment.

24 Q. And then people calling food delivery services to have  
25 them delivered to him while he was recording his show?

1 A. Right. Things like that, we can't attribute to who did  
2 that.

3 Q. You couldn't attribute all of those to the Bowl Patrol, is  
4 what you said; is that right?

5 A. That's correct.

6 Q. But you were in the course of your investigation able to  
7 determine that there had been harassment of Chris Cantwell by  
8 members of the Bowl Patrol?

9 A. Sure.

10 Q. And, in fact, you spoke to people who admitted to that?

11 A. They admitted to pranking, making prank calls, making  
12 jokes.

13 Q. Now, you interviewed -- the FBI, I should say, interviewed  
14 members of the Bowl Patrol; is that right?

15 A. Yes, we did.

16 Q. They interviewed Cheddar Mane or a man named Ben Lambert  
17 who also goes by the name of Cheddar Mane; is that right?

18 A. Yes.

19 Q. They interviewed Uncle Paul, who is a person named Paul  
20 Nehlen?

21 A. Correct.

22 Q. Someone who goes by the name in the group as Hardmous or  
23 DJ Hardmous, who is Thomas Gibson?

24 A. Yes.

25 Q. Were there others that were interviewed as well?

1 A. As a part of the inquiry into this harassment or just in  
2 general?

3 Q. About the Bowl Patrol harassment of Cantwell.

4 A. I believe those were the only ones specifically about the  
5 harassment.

6 Q. What about Robert Moeller, Tactical BowlCut?

7 A. I don't recall -- we didn't interview him, this office.

8 Q. Jeffrey Clark of DC Bowl Gang?

9 A. Again, not this office.

10 Q. Ronald Evans, who's also known as Uncle Dad?

11 A. No.

12 Q. Dallas Medina, who's known as Mosin-Nagant?

13 A. Dallas Medina has been interviewed by the FBI on multiple  
14 occasions, not by our office.

15 Q. He has been?

16 A. Not by our office.

17 Q. And not about harassment of Chris Cantwell?

18 A. He was approached in this time frame. I don't think -- he  
19 chose not to speak with us, and he was not compelled to do so,  
20 but he also has a history of interactions with Mr. Cantwell on  
21 his own.

22 Q. What about a gentleman known as Wignasty, who is also  
23 known as David Fassler?

24 A. He was not interviewed by us.

25 Q. Or Mark Reardon, who is also known as Illegal Aryan?

1 A. No.

2 Q. What about Andrew Casarez, also known as Vic Mackey?

3 A. He was identified over the course of this investigation by  
4 our office, and we pushed very hard to have him interviewed,  
5 but ultimately we lost that battle because it requires  
6 coordination with other offices. Very few of the people you're  
7 mentioning were mentioned by Mr. Cantwell in his harassment  
8 complaint, which is also why a lot of them weren't approached  
9 unless we had definitive information that they were  
10 participating.

11 Q. Was Vic Mackey interviewed by any FBI agent?

12 A. Not to my knowledge, not as part of this harassment  
13 complaint.

14 Q. Was he interviewed during this period about anything else  
15 where they --

16 MS. KRASINSKI: Objection. Relevance.

17 MR. LEVIN: I'll just finish my question.

18 THE COURT: Finish the question, but don't answer it.

19 Q. Was he interviewed during this period, during the period  
20 of investigation of Mr. Cantwell, and not asked about the  
21 investigation into Cantwell?

22 THE COURT: Sustained.

23 Q. Now, it was during your investigation of Chris Cantwell  
24 that the FBI came across the text exchange that's the subject  
25 of this criminal case; is that right?

1 A. Yes.

2 Q. And this wasn't a complaint that the FBI received from  
3 Cheddar Mane, slash, Ben Lambert?

4 A. Correct.

5 Q. This was something that the FBI stumbled across while an  
6 intelligence analyst was monitoring the Bowl Patrol account; is  
7 that right?

8 A. Correct.

9 Q. And intelligence analysts in Washington D.C. were assigned  
10 to monitor the Bowl Patrol; is that right?

11 A. I can't definitively say that.

12 Q. You can't say that?

13 A. I don't know what their assignment was exactly. I know  
14 they observed this threat on that channel, and they relayed it  
15 to us.

16 THE COURT: Agent, you can only testify to what you  
17 have personal knowledge of. If you don't have personal  
18 knowledge, you can so state.

19 Q. You don't have personal knowledge of that. You testified  
20 in the grand jury on January 2nd -- 22nd, 2020; is that right?

21 A. Yes, I did.

22 MR. LEVIN: Can I approach the monitor, your Honor?

23 THE COURT: Yes, you may, any time you want.

24 Q. And if you see at the bottom this answer, could you just  
25 read that to yourself.

1 A. (Witness complied). Okay.

2 Q. In January of this year you testified, did you not, that  
3 intelligence analysts were assigned to monitor or investigate a  
4 group called the Bowl Patrol; is that right?

5 MS. KRASINSKI: Objection. Misstates the transcript.

6 THE COURT: Wait a sec, wait a sec.

7 MR. LEVIN: I'll rephrase the question.

8 THE COURT: Wait a second.

9 MR. LEVIN: Sorry.

10 THE COURT: Okay. Put the headsets on.

11 (SIDEBAR CONFERENCE AS FOLLOWS):

12 THE COURT: All right. It's not clear to me that this  
13 witness has personal knowledge of the thing that the witness is  
14 being asked to testify about. As, of course, we know,  
15 witnesses can testify in the grand jury without having personal  
16 knowledge about the matters on which they're testifying; so to  
17 establish that a witness testified to the grand jury on a  
18 particular matter does not establish that the witness has  
19 personal knowledge. If he knows that there was an  
20 investigation because somebody told him that there was an  
21 investigation, it isn't based on personal knowledge, it's  
22 hearsay. So, you need to lay a foundation for what you're  
23 doing. Merely showing that he was asked a question and gave an  
24 answer in the grand jury doesn't establish the basis of his  
25 knowledge.

1                   MR. LEVIN: Understood.

2                   THE COURT: Okay.

3                   (END OF SIDEBAR CONFERENCE)

4                   Q. Agent Tongbua, you testified to matters in the grand jury  
5 regarding the initial discovery of the text messages exchange  
6 that's at issue in this case; is that right?

7                   A. Yes.

8                   Q. And you testified that the initial discovery was by one of  
9 your intelligence analysts at FBI headquarters in D.C.; is that  
10 right?

11                  A. That's correct.

12                  Q. And I believe you testified to that today here, too, in  
13 your direct testimony.

14                  A. Yes.

15                  Q. Do you know what caused the intelligence analysts in D.C.  
16 to stumble on those text messages, what they were doing when  
17 they stumbled -- do you have personal knowledge or any kind of  
18 knowledge of what the FBI was doing when they stumbled across  
19 those text messages?

20                  A. I have an understanding that someone was reviewing that  
21 channel, but I don't have definitive knowledge of why and what  
22 their specific assignment was.

23                  Q. Okay. So, when you testified in the grand jury to what  
24 you thought was happening, you didn't have any knowledge of  
25 that?

1       A. I said that was my understanding in the grand jury. I  
2       said I believe that an analyst was monitoring that channel.

3           THE COURT: I just want to be clear so there's no any  
4       misleading going on here. What somebody can testify to in the  
5       grand jury is quite different, as you know, from what a person  
6       can testify to in public. So, that someone can testify to  
7       something in the grand jury doesn't mean that they can testify  
8       in public about the same matter, so I just want to make that  
9       clear.

10      Q. And is it your understanding that when the analysts in  
11     Washington came across this text exchange, that was in July of  
12     2019; is that right?

13      A. That is my understanding. That's correct.

14      Q. And that was about several weeks to a month after the  
15     alleged events?

16      A. Correct.

17      Q. Now, I just want to make it clear, because there was some  
18     testimony about items that were found on Mr. Cantwell's phone,  
19     items that were found on Mr. Cantwell's computer, these items  
20     were seized from Mr. Cantwell, and you testified that on the  
21     cell phone and on the computer that were in Mr. Cantwell's  
22     residence that there were photographs of Ben Lambert's family;  
23     is that right?

24      A. Correct.

25      Q. But isn't it also true that in August of 2019 Mr. Cantwell

1       sent emails to the FBI?

2       A.     That's correct.

3       Q.     And attached to the emails were the same photographs of  
4           Mr. Lambert's wife and children that he had obtained?

5       A.     That's correct, and all of those photos were in the same  
6           directories. Both the photos of the family and this Telegram  
7           message exchange were all found in the same folders.

8       Q.     Right. And those same photographs that were emailed to  
9           the FBI were later found on his phone and on his computer?

10      A.     Correct.

11      Q.     But he had shared those with the FBI in --

12      A.     He did not share any of the rest of the threat exchange,  
13           images.

14      Q.     He shared the images of Cheddar Mane's wife and children;  
15           is that right?

16      A.     He did.

17      Q.     He shared the photograph of Cheddar Mane or Ben Lambert  
18           with what appeared to be strips of LSD on his tongue?

19      A.     Yes, the picture with something on his tongue. Yes.

20      Q.     He shared Cheddar Mane's address in Missouri?

21      A.     Correct.

22      Q.     He admitted contacting Cheddar Mane to get Vic Mackey's  
23           information?

24      A.     Correct.

25      Q.     Then he admitted that he threatened to expose Cheddar

1 Mane's identity if he continued harassing and defaming him; is  
2 that right?

3 MS. KRASINSKI: Objection.

4 THE COURT: Basis?

5 MS. KRASINSKI: Misstates testimony and facts not in  
6 evidence.

7 THE COURT: Lay a foundation for that, Mr. Levin. I  
8 don't recall it.

9 MR. LEVIN: Okay.

10 MS. KRASINSKI: And, your Honor, hearsay if it's  
11 offered for the truth of the matter.

12 THE COURT: All right. I have already instructed him  
13 how to proceed.

14 Q. Okay. I just want to show you page 14 of your grand jury  
15 testimony from Wednesday, January 22nd, 2020 in which you are  
16 describing an email, the email that we're discussing. This is  
17 the question and the answer. Does that sound familiar?

18 A. Yes.

19 Q. Is that an email that -- is that text from an email that  
20 the FBI received?

21 A. Yes, I believe so.

22 Q. And in that email he admitted that he threatened to expose  
23 his identity if he continued harassing and defaming me?

24 MS. KRASINSKI: Objection, your Honor. Hearsay.

25 THE COURT: All right. You folks have completely lost

1       me. I don't understand what you're doing, and I'm speaking to  
2 both sides here.

3                 Unfortunately, Members of the Jury, I can't untangle  
4 this without having extensive discussions with the parties. I  
5 hoped to be able to continue until 4:30 before I dismissed you,  
6 but if I tried to keep you here I would just be wasting your  
7 time. So, I'm going to excuse you for the day while I work  
8 with counsel to understand what's happening here.

9                 I will remind you of my general instructions. Keep an  
10 open mind. Don't discuss the case with anybody else. Don't go  
11 out and try to do any investigation.

12                 And we're agreeing to start at 9:30. Is that right?

13                 Please come back a little before 9:30. I'm going to  
14 meet with the parties beforehand and do everything I can to  
15 make sure that tomorrow's testimony flows as efficiently as  
16 possible.

17                 Have a good evening. We'll see you tomorrow morning.

18                 THE CLERK: All rise for the jury.

19                 (The jury exited the courtroom)

20                 THE COURT: Sir, you can step down, but why don't you  
21 just stay in the courtroom in case we need you, okay?

22                 THE WITNESS: Yes, your Honor.

23                 THE COURT: All right. Be seated.

24                 Mr. Levin, I want to give you as wide a scope for  
25 cross-examination as possible, but I don't really understand

1 what's happening right now. Can you explain to me what you're  
2 getting at here?

3 MR. LEVIN: Your Honor, I guess what I'm getting at is  
4 that there was I think an impression created during the direct  
5 of Agent Tongbua that this evidence was seized from Mr.  
6 Cantwell, and I'm trying to establish that Mr. Cantwell  
7 provided this evidence to the FBI.

8 THE COURT: Are you referring to the time when he sat  
9 down in the interview with this agent?

10 MR. LEVIN: This happened before that. This happened  
11 maybe a month before the sit-down interview. He was having an  
12 email exchange with the FBI.

13 THE COURT: That's where I'm confused. What testimony  
14 did the government elicit on this particular point?

15 MS. KRASINSKI: Agent Tongbua testified both that he  
16 found these items on the defendant's hard drives, but I believe  
17 he also testified that Mr. Cantwell provided them to him.

18 THE COURT: That slipped by me, so I need to  
19 understand better the sequencing here. So, you tell me what  
20 you think happened on direct in sequential order about how the  
21 case agent came to learn of this -- of the emails and the  
22 interaction.

23 MS. KRASINSKI: So, when we were going through  
24 Government's Exhibit 100 there's Mr. Cantwell's statement after  
25 he sends the picture of Ms. Lambert and three of her children.

1       He says, More where that came from, and so I asked Agent  
2 Tongbua --

3                 THE COURT: No. I'm asking you to tell me about the  
4 sequence by which Agent Tongbua first acquired information  
5 about this email exchange and these photographs, and I want you  
6 to tell me about what the evidence was on direct about the  
7 first time he learned of these exhibits and when he  
8 subsequently got them off of the phone. And I apologize,  
9 because if you said you elicited I don't doubt you, but its  
10 significance did not register with me at the time, so I need  
11 you to tell me exactly what you think was elicited on direct  
12 about this.

13               I recall there was an interview where there was a  
14 discussion where Mr. Cantwell was quite frank in discussing  
15 what he had done, but it did not register with me that there  
16 was an email that preceded that interview where Mr. Cantwell  
17 volunteered all of this, this entire exchange to the FBI, and  
18 if that's all that Mr. Levin's trying to do there is a way to  
19 do that, and I don't understand why you would be objecting to  
20 it.

21               So, I thought he was trying to do something completely  
22 different, and part of it is the methodology that Mr. Levin is  
23 using, which is one I'm not familiar with. Showing someone  
24 grand jury testimony without -- again, you can help educate me.  
25 In my experience witnesses can testify about what they know

1 based on personal knowledge. They can't testify about what  
2 other people -- there's no, like, case agent exception to the  
3 hearsay and personal knowledge rule, where the government or  
4 the defense can ask the case agent, What did other guys down in  
5 Washington a year before you got involved with the case, what  
6 were they doing? Why were they doing that? What did they  
7 learn? That can't come in in an ordinary case.

8 Grand jury testimony, you can't just throw up grand  
9 jury testimony to a witness and ask him to read it to himself  
10 and then question him about it. That isn't how I understand  
11 the *Rules of Evidence*. So, when that happens sometimes there's  
12 no objection, sometimes there's objection, it becomes almost  
13 impossible to untangle. So, I think part of my confusion stems  
14 from the method you were using, but part of it is, if the  
15 government elicited this in their direct case and all they're  
16 trying to do, all Mr. Levin is trying to do is establish, Hey,  
17 before he even sat down with you he volunteered this stuff to  
18 you in an email, he should be allowed to do that, and why  
19 shouldn't he?

20 MS. KRASINSKI: I don't have any objection to that at  
21 all, your Honor. My objection is to when he's going into and  
22 asking questions about the contents of an August 28th email  
23 that Mr. Cantwell sent to the FBI. If Mr. Levin wants to say,  
24 On August 28th, 2019, before you seized the electronic devices,  
25 didn't Mr. Cantwell provide you with copies of these photos, I

1 don't have any objection to that, your Honor.

2           But when Mr. Levin is asking -- is referring to  
3 portions of Mr. Cantwell's email, the email Mr. Cantwell says  
4 in the email, Since I have this information about him I  
5 threatened to expose his identity if he continues harassing and  
6 defaming me, asking about that statement is hearsay. So, if  
7 Mr. Levin --

8           THE COURT: Doesn't that help you and hurt him? I  
9 don't even understand what you're doing. Why are you doing  
10 what you're doing? It doesn't make any sense to me. So, it's  
11 really hard when I'm operating in kind of an *Alice in*  
12 *Wonderland* world, where the government is trying vigorously to  
13 keep out things that are damaging to the defendant and the  
14 defendant is trying to elicit them. So, it's not making any  
15 sense to me, so help me. I don't have the email. I don't know  
16 what the email says. I don't know why you're trying so  
17 vociferously to keep it out. I don't know if you're trying to  
18 get into it. If all you want to do is establish, Isn't it  
19 true, Case Agent, that before you even sat down to interview  
20 Mr. Cantwell he sent you an email and in that email he attached  
21 the very same documents that are being used to prosecute him --  
22 is that what you want to say?

23           MR. LEVIN: That's it.

24           THE COURT: Go for it.

25           You don't have a problem with that.

1 MS. KRASINSKI: I don't have an objection to that.

2 THE COURT: So, go for it. That is fine, absolutely.

3 MR. LEVIN: The email, by the way, is a government  
4 exhibit. That's what I was just referring to.

5 THE COURT: I'm not sure, and I guess maybe it would  
6 help me if I could understand the government's theory. You  
7 seem bound and determined to try to prevent Mr. Cantwell from  
8 eliciting testimony that he felt he was being harassed by these  
9 people. You seem like you really want to do that, but I don't  
10 even understand why, because it's not a defense to the crime.

11 MS. KRASINSKI: So, I think there's a line. I don't  
12 think we are trying to exclude evidence that he felt harassed.  
13 I think evidence that he tried to report that to law  
14 enforcement, his conversations with law enforcement, I don't  
15 think that's relevant to whether or not his intent was to  
16 extort.

17 THE COURT: Is this your fear, so that I can at least  
18 understand your thinking? Your thinking is, even though  
19 provocation is not a defense, even though it's not a defense to  
20 say, Well, I tried to go to law enforcement so I had to take  
21 the law into my own hands, isn't a defense, you think it's  
22 really damaging to your case to hear from the jury that Mr.  
23 Cantwell was frustrated that the FBI wasn't doing what he  
24 wanted them to do.

25 What's not resonating with me is the way I understand

1       the law, and if you had requested an instruction on this I  
2       would give it, is that provocation is not a defense, and that  
3       the government didn't investigate what Mr. Cantwell wanted him  
4       to would not excuse his conduct if it was otherwise criminal.  
5       Is that the law, or have I got that wrong?

6                  MS. KRASINSKI: It is the law. And, actually, your  
7       Honor, this morning I did file an instruction, request for an  
8       instruction.

9                  THE COURT: So, why are you so concerned about it,  
10      then?

11                 MS. KRASINSKI: I just think at some point this  
12      becomes about Mr. Cantwell complaining to the FBI, and when  
13      you're looking at 403, when you're looking at the fact that  
14      it's not relevant to a defense --

15                 THE COURT: But in order to make -- okay. This is  
16      when I talk to you about context and why I have to allow the  
17      defense to allow the full context for what's happening to come  
18      in, and you, yourself, have acknowledged, I believe. Mr. Davis  
19      did in his opening statement, that this came about because Mr.  
20      Cantwell was complaining to the FBI, and he was frustrated that  
21      Bowl Patrol people were defacing his site and trying to  
22      interrupt his ability to conduct his business, and he  
23      eventually complained to the FBI, and when he felt the problems  
24      were continuing he took these additional measures, which he  
25      acknowledges that he did, and it's those additional measures

1 that are the criminal acts that comprise the charges here. And  
2 I'm just having a lot of trouble making sense of what's  
3 happening.

4                   But, Mr. Levin, your point is -- I want to be very  
5 clear. You have every right to elicit in cross-examination  
6 from the agent that Mr. Cantwell produced these very same  
7 exchanges that are the subject of these charges to the FBI.

8                   MR. LEVIN: That's right. My problem with it is that  
9 I feel like what the government's trying to do is say he was  
10 hiding this stuff and that's consciousness of guilt, when, in  
11 fact, he was giving it to them. They're statements that he  
12 makes that they want to characterize as admissions. They're  
13 actually him complaining about what happened to him. They're  
14 not admissions. So, I think context matters in this  
15 circumstance as well.

16 THE COURT: So, the government clearly wants to elicit  
17 some evidence that he failed to disclose certain things, right,  
18 because you reference that in your opening statement?

19 (Attorney Krasinski nodded)

20 THE COURT: What exactly is it that he didn't disclose  
21 that you think tells us something about his guilt?

22 MS. KRASINSKI: So, he disclosed the actual  
23 photographs of Mrs. Lambert and Mr. Lambert, and he disclosed  
24 their address. What he did not disclose and what he told the  
25 FBI he retained no records of were the messages themselves. He

1 told the FBI that he did --

2 THE COURT: Well, let me stop. Again, the parties  
3 have not done a great job of educating me about exactly what  
4 the evidence in this case is, so I'm learning it as it's coming  
5 out. But there is this Telegram app, and on this Telegram app  
6 you can do a variety of things: you can direct message  
7 somebody, you can host a blog, you can host a discussion group.  
8 And the statements that comprise the -- give rise to the  
9 charges in this case occurred primarily through direct  
10 messages, right?

11 MS. KRASINSKI: Correct, your Honor.

12 THE COURT: Is the evidence in this case that Mr.  
13 Cantwell -- did he ever disclose voluntarily those direct  
14 messages to the FBI?

15 MS. KRASINSKI: He did not, your Honor.

16 THE COURT: Okay. What Mr. Levin is referring to is  
17 not the direct messages; he's referring to something else,  
18 right?

19 MS. KRASINSKI: Correct, your Honor.

20 THE COURT: What do you say he's referring to?

21 MS. KRASINSKI: You can look at it, your Honor. If we  
22 could display Government's Exhibit 501, I think that maybe will  
23 help your Honor.

24 MR. LEVIN: 502 I think it was.

25 MS. KRASINSKI: Sorry?

1                   MR. LEVIN: 502 I think it was.

2                   MS. KRASINSKI: The images were attached to a separate  
3 email, Government's Exhibit 501.

4                   MR. LEVIN: Oh.

5                   MS. KRASINSKI: So, he provided the actual family  
6 photographs and the address information. That is what he  
7 provided. And so, the images attached to Government's Exhibit  
8 501 are included in that email.

9                   THE COURT: When he was complaining about Cheddar Mane  
10 because that was identifying information he had about Cheddar  
11 Mane? That's what I'm not -- what I'm not getting is that I  
12 think the government's position is -- well, let me ask you to  
13 do it this way: Tell me exactly what it was that he did not  
14 disclose that you feel he should have disclosed and, because he  
15 didn't, it suggests that he understood that those  
16 communications were problematic. Is it only the direct  
17 messages?

18                  MS. KRASINSKI: Correct, your Honor, both versions of  
19 the direct messages.

20                  THE COURT: All right. Did he in the email he  
21 submitted beforehand to the FBI say anything about threatening  
22 to have sex with Cheddar Mane's wife in front of his children?

23                  MS. KRASINSKI: He did not, your Honor.

24                  THE COURT: All right. Did he say anything about  
25 reporting Cheddar Mane to CPS?

1 MS. KRASINSKI: Yes, your Honor.

2 THE COURT: All right. So, some of it he did  
3 disclose, and some of it he didn't disclose. Is that fair to  
4 say?

5 MS. KRASINSKI: Yes. What I'm saying he didn't  
6 disclose is the actual Government's Exhibit 100, the actual  
7 screenshots of the messages.

8 THE COURT: He discloses the content. To rebut your  
9 theory that he's trying to conceal all this, it's very  
10 important for the jury to hear what, in fact, he did disclose,  
11 and then you can make your argument about what he didn't  
12 disclose. Mr. Levin is fully entitled to say that some of the  
13 conduct that comprises these charges was, in fact, disclosed to  
14 the FBI by Mr. Cantwell in an email on a particular date,  
15 right? And you don't disagree with that.

16 MS. KRASINSKI: No, I agree with that. I agree with  
17 what you're saying.

18 THE COURT: Okay. So, the CPS stuff -- how about the  
19 stuff, I'm going to dox you?

20 MS. KRASINSKI: I agree that that's --

21 THE COURT: Was that also disclosed? All right.

22 MR. LEVIN: It was.

23 THE COURT: So, what wasn't disclosed was the alleged  
24 threat to have sex with his wife in front of his children?

25 MS. KRASINSKI: Correct, your Honor.

1                   THE COURT: Was there anything else in that exchange?  
2 I know your point is the screenshots weren't disclosed, but  
3 what matters is the content of the communications. If they  
4 were disclosed through another means, that tends to support his  
5 argument that Mr. Cantwell didn't conceal the information and  
6 undermine your argument that he's concealing the evidence of  
7 his criminal conduct, and he needs to be able to do that. So,  
8 what have I got wrong in what we have just been talking about?

9                   MS. KRASINSKI: I agree with everything you just said,  
10 your Honor.

11                  THE COURT: Okay. So, what is it in this email that  
12 you don't think is fair game?

13                  MS. KRASINSKI: So, I don't think that the defendant  
14 should be able to introduce his self-serving hearsay statements  
15 characterizing what Cheddar Mane was doing as harassing and  
16 defaming. There's no evidence that Cheddar Mane did anything  
17 defamatory. There's evidence of prank calls, but there's no  
18 evidence of defamation, and so I think the government wants to  
19 be careful about having cross-examination be used as a platform  
20 to allow the defendant to introduce his own --

21                  THE COURT: Are you trying to get into the content of  
22 Cheddar Mane's email to the FBI apart from showing that he  
23 disclosed these communications?

24                  MR. LEVIN: This is Cantwell. This is Cantwell's  
25 email to the FBI.

1                   THE COURT: I'm sorry. I meant Cantwell's  
2 communication to the FBI.

3                   MR. LEVIN: That in August of 2019, before he sat down  
4 with the FBI, he admitted to them that he threatened to expose  
5 Cheddar Mane's real name if Cheddar Mane continued harassing  
6 and defaming him; that he did expose him after offering him the  
7 out of identifying Vic Mackey, which he declined; that he  
8 called CPS in his area to warn that he was involved in a white  
9 supremacist terror group, which, in combination with a photo  
10 that appears to show LSD on his tongue, could put him in  
11 danger; that this was information that the FBI received from  
12 Cantwell before they even sat down with him.

13                  THE COURT: Would you be willing to do it in just that  
14 way?

15                  MR. LEVIN: Sure.

16                  THE COURT: Mr. Case Agent, you know that the FBI got  
17 an email from Cantwell well before you sat down to interview  
18 him, right? And in that email Mr. Cantwell did, in fact,  
19 disclose that he had made this statement about Cheddar Mane,  
20 and he did disclose that he was threatening to report him to  
21 the FBI.

22                  You don't have any problem with them doing that, do  
23 you?

24                  MS. KRASINSKI: No, as long as they leave out the --

25                  THE COURT: Okay, yeah. What you're so concerned

1       about I think is almost inconsequential, because it doesn't  
2 provide any defense, and, as a result, it's creating tremendous  
3 confusion.

4           But, Mr. Levin, unless I'm wrong about this,  
5 provocation is not a defense to these charges, and if I get a  
6 request for instruction on it, I'll give an instruction on  
7 that, unless you can convince me that it is --

8           MR. LEVIN: We're not asking for a provocation  
9 instruction, your Honor, but there is a criminal intent element  
10 to this offense.

11          THE COURT: But if he did it with criminal intent  
12 because he was provoked or because he felt, in his words, I  
13 have to commit a criminal act if the FBI won't do it, that  
14 isn't a defense.

15          MR. LEVIN: Right.

16          THE COURT: The FBI wouldn't investigate, so I had to  
17 go out and commit a crime, that isn't a defense.

18          MR. LEVIN: Right. And our point is it's incongruous  
19 that somebody has a criminal intent when he's telling the FBI,  
20 This is what I'm doing. This is what I did.

21          THE COURT: That's why I'm suggesting that you should  
22 be able to fully do what you want to do, and I'm suggesting --  
23 surprised that the government is so repeatedly asserting these  
24 objections about trying to keep the jury from hearing that Mr.  
25 Cantwell was frustrated. The jury will know that Mr. Cantwell

1 was frustrated, because that very evidence of frustration is  
2 the evidence you want to introduce as motive, right? You're  
3 trying to show why he's trying to do this, and the reason he's  
4 trying to do it is because he was damn mad at these people  
5 because he felt they were ruining his business, and you  
6 introduced evidence yourself that the FBI isn't doing anything  
7 and that's aggravating his frustration. That's your case,  
8 isn't it? That's the motive for committing the crime from your  
9 perspective, isn't it? That's what I'm not understanding.

10 MR. DAVIS: I think it's subtle, your Honor, and I  
11 understand your frustration. The defense now is this whole  
12 thing was a primal scream by Mr. Cantwell, Leave me alone,  
13 leave me alone. What the defense is saying is that in that  
14 exchange Mr. Cantwell did not intend to issue a threat and did  
15 not intend to extort the information of Vic Mackey, and those  
16 are the specific intents we have to prove.

17 THE COURT: Excuse me a second. I'm just sort of  
18 mindful of what the law is and how I intend to instruct the  
19 law. The way I understand the law, that he wanted to be left  
20 alone is understandable but not a defense to criminal behavior;  
21 that he wanted these people to stop attacking his site is  
22 understandable but not a defense to criminal behavior; that the  
23 FBI didn't act the way he thought they should act in response  
24 to his threat is understandable but is not a defense; that he's  
25 really, really mad when he does his acts doesn't mean it's not

1 a crime.

2           If he undertakes conduct with the requisite criminal  
3 intent, and the conduct is sufficient if undertaken with that  
4 intent to be criminal, the jury will be told to return a  
5 verdict of guilty. That he wants to be left alone and is  
6 really, really frustrated, and it's a shame that the FBI didn't  
7 investigate as aggressively, it doesn't lead anywhere. It  
8 doesn't in any way undermine your case. That's what I'm trying  
9 to understand. It's almost as if you have a deep fear that the  
10 jury won't follow my instructions and that they will basically  
11 engage in jury nullification, maybe? Is that what you're  
12 mostly concerned about, that they'll be really upset at the FBI  
13 and really sympathetic to Mr. Cantwell, and they'll ignore the  
14 law and find him not guilty, even though the evidence points to  
15 guilt? Is that what your fear is? I'm just trying to  
16 understand what this is all about, and I'm not getting it.

17           I'll go back to this particular email. All right.

18           So, Ms. Krasinski, I am going to allow Mr. Levin to  
19 cross-examine about this email. I agree with you that he can't  
20 use his client's own statements that you haven't sought to  
21 introduce to establish anything, because anything that would  
22 otherwise be hearsay remains hearsay when the defendant seeks  
23 to introduce it.

24           So, if he goes in and says, And in this email you said  
25 my client said he did X to try to prove that he, in fact, did

1 X, that would be hearsay and would be inadmissible, but I  
2 haven't yet heard Mr. Levin do that, and I think he is entirely  
3 within his rights to rebut or eliminate confusion about one  
4 argument you're trying to make. You're trying to make a narrow  
5 argument that is there were certain screenshots on his phone  
6 that he didn't disclose. Yeah, he did tell the FBI, in fact,  
7 he, unsolicited, produced a lot of these conversations, which  
8 is entirely relevant to your defense that your client lacked  
9 criminal intent, because if he had criminal intent why would he  
10 disclose these things? That makes perfect sense to me, and you  
11 should be given full opportunity to pursue that aggressively.  
12 All right? But if he tries to get into specific statements in  
13 the email that Mr. Cantwell made in the email that are  
14 admissible only if the hearsay rule can be overcome and there's  
15 no other exception to the hearsay rule that applies, then you  
16 have a valid hearsay objection that Mr. Cantwell's self-serving  
17 statements admitted for the truth of those statements in an  
18 email that he sent to the FBI is inadmissible hearsay. So, I  
19 accept that.

20 Now, let's just go back over a couple of other things,  
21 because, again, I'm having trouble in ruling consistently and  
22 clearly, and that's this idea of a kind of case agent exception  
23 to the personal knowledge requirement. And this is what  
24 happens in the grand jury, and I'm sure you don't like it, but  
25 in the grand jury the agent comes in, and he's like the summary

1       witness for the entire investigation. He tells the grand jury  
2       everything that his agents are doing that he read about in  
3       reports and everything else. But that he did that doesn't mean  
4       that he can do that in court. He couldn't do it for the  
5       government, and he can't do it for you. He can testify based  
6       on personal knowledge to things that are not inadmissible  
7       hearsay. All right?

8           So, I need you both to be careful when dealing with  
9       witnesses -- and I find this is the most misunderstood and most  
10      important rule in the *Rules of Evidence*, is that you have to  
11      have personal knowledge about that which you are testifying,  
12      and you have to lay the foundation for that so that the  
13      reviewing judge can know is that admissible or not. So, lay  
14      that foundation.

15           Second, when can you use transcripts of grand jury  
16      testimony or deposition testimony? You can use it to impeach  
17      when there's inconsistency; you can use it to refresh memory  
18      when there's no recollection, the witness says, I can't  
19      remember, but you can't just say, Let me show you some grand  
20      jury material. Didn't you say in front of the grand jury X?  
21      That is not an acceptable way to proceed. So, establish a lack  
22      of memory and then you can show it to him and ask, Having read  
23      that, is your recollection refreshed? Or if he says black when  
24      it's white, you can say, Didn't you say white when you  
25      testified in the grand jury? Other than that, I don't think

1 you can use the grand jury testimony for any other purposes.

2 So, do those kind of things. I'll better understand  
3 what you're doing.

4 I understand your basic point is correct that the  
5 defendant cannot elicit in documents his own hearsay statements  
6 that you haven't gone into. I agree with that. Unless under  
7 the rule of completeness or something it comes in, you can't do  
8 that. But he certainly can establish that these things were,  
9 in fact, disclosed by him, because that's one of his central  
10 arguments he's going to make in closing argument, he should  
11 make. Half of the government's case Mr. Cantwell sent to the  
12 FBI in an unsolicited way. How is that consistent with  
13 somebody who is acting with a criminal intent? That I  
14 completely, completely understand. But I just want to be  
15 clear, and if you've got law on this, tell me, but I don't  
16 understand provocation as a defense, I don't understand the  
17 failure of the government to investigate his own complaints  
18 vigorously as a defense, and it doesn't undermine the  
19 government's case that he acted with criminal intent.

20 MR. LEVIN: Right. We're not raising a provocation  
21 defense. We don't believe one exists, and so we're not raising  
22 it.

23 THE COURT: Because evidence that he was really mad at  
24 these guys and wanted to get back at them is the motive, isn't  
25 it? As far as I could see, why is he doing what he's doing?

1       Because he's really mad at this guy and wants to get back at  
2 him. That's the motive. So, it's rare that the government is  
3 objecting vigorously, trying to keep out motive evidence that  
4 supports the charge, and that's where I'm having a little bit  
5 of trouble. So, maybe you can think about that as well.

6                 All right. Now, the exhibits with the excerpts, do I  
7 have a transcript of the full call?

8                 MR. LEVIN: Yes. Ms. Sheff did provide one.

9                 THE COURT: All right. We've got a full call. And do  
10 I have the transcripts of the excerpts you want introduced?

11                 MS. KRASINSKI: I think those may have been returned.  
12 I don't know if copies have been made.

13                 MR. LEVIN: Those were Governments Exhibits 105 to  
14 109.

15                 THE COURT: What I need to read tonight are both of  
16 them, because what I'm going to do is I'm going to make a copy  
17 of what I get for the full transcript; then I'm going to go  
18 through and highlight exactly where the excerpts are; and then  
19 I'm going to read the whole transcript and decide what else  
20 beyond those excerpts, if anything, should come in under the  
21 rule of completeness; and then I will tell you tomorrow morning  
22 what it will be; and then you can put together a new composite  
23 exhibit that satisfies the rule of completeness.

24                 Did Mr. Wolpin leave?

25                 MR. LEVIN: No, he's here.

1                   THE COURT: If he needs to go for child care -- you  
2 can go.

3                   MR. WOLPIN: The afternoon's good.

4                   THE COURT: Okay. It's just the morning that's the  
5 problem?

6                   MR. WOLPIN: Right. Thank you.

7                   THE COURT: All right. So, that's what I'm going to  
8 do on that issue. On the government's request to call a video  
9 deposition of the victim's spouse, if there's still an issue  
10 with respect to that, there's a confrontation clause objection,  
11 I've got materials, I'm reading those opinions, and I should be  
12 able to give you a decision tomorrow on that. So, I'll give  
13 you a ruling on that tomorrow.

14                  Mr. Wolpin, you're standing. Do you have something?

15                  MR. WOLPIN: Yes. I had approached Clerk Negron about  
16 this issue. If the Court ultimately rules in favor of the  
17 government, I think that the lesson of this morning for us is  
18 that, for purposes of preservation, how that appears is not  
19 going to be visible on the transcript, and so my concern was  
20 how can we preserve what that actually, that testimony actually  
21 looks like in the courtroom for appeal, or else we're just  
22 looking at a transcript of someone like we had this morning,  
23 and it really wouldn't show what it really looked like.

24                  THE COURT: So, I strongly defend the proposition that  
25 the official record of the proceeding is what the court

1 reporter transcribes. I'm ordinarily very reluctant to admit  
2 any record of anything that happens in court other than  
3 testimony of a witness or the court reporter transcript, but  
4 your argument may be the one case where it makes a difference,  
5 so if I were to allow it and there is a way to record it, we  
6 would make a recording of it and keep it for purposes of  
7 appeal. The video today was not ideal; I think we can all  
8 agree to that. It was in my mind sufficient, especially since  
9 the witness's testimony, frankly, was of limited relevance and  
10 not contested, but I will assure you that if there's going to  
11 be a -- I would not let an important witness like the victim's  
12 spouse testify unless I was confident that the quality of the  
13 image and the sound was clear enough that you guys could have a  
14 fair shot at it on cross, okay? Because if that's as good as  
15 we could do, I would not allow that witness to testify by  
16 video. But we can do better, and we have done better, and I've  
17 seen it countless times. We did it better 20 years ago on  
18 9/11, when I had a witness testify from a courthouse in  
19 Chicago. So, we can do it. I won't let it happen unless we  
20 can, in fact, do it in this case, and I think we should make a  
21 record of it so that, if there's some argument that, Hey, I  
22 couldn't see the person's lips moving, the jury couldn't make  
23 any credibility assessment, that would be all vitally  
24 important. But there are threshold questions about the  
25 admissibility of the testimony that we may not even get there.

1 I have to rule on that tonight.

2 All right. So, tell me about -- and I'm sorry to keep  
3 you, but I want to keep the testimony -- I want a full day of  
4 testimony tomorrow. So, what does the government anticipate  
5 putting on tomorrow?

6 MR. DAVIS: We anticipate calling the victim, Cheddar  
7 Mane, Mr. Lambert.

8 THE COURT: Okay. And so this agent, finishing the  
9 cross and redirect, and then Mr. Lambert will be a big chunk of  
10 the day tomorrow?

11 MR. DAVIS: Yes.

12 THE COURT: And then how much more do you have to put  
13 on by way of evidence?

14 MR. DAVIS: I think we have maybe five witnesses, none  
15 long, but --

16 THE COURT: Another day, perhaps?

17 MR. DAVIS: Yes. I think we rest -- today's Tuesday.  
18 I think we certainly rest by close of business Thursday, unless  
19 something strange happens.

20 THE COURT: Okay. And I know, of course, you can't  
21 make any prediction about anything, but if the defendant were  
22 to testify, that would increase the length of the trial by at  
23 least a day, which he might do, or he might exercise his right,  
24 which he's entitled to do, which would take a day away from it.  
25 Do you anticipate, regardless of what you're seeing now, that

1       there's a possibility for more days of defense testimony?

2           MR. LEVIN: Other than Friday?

3           THE COURT: Yeah.

4           MR. LEVIN: No. I mean, I don't think so, no.

5           THE COURT: Okay. So, we're still within the realm of  
6 being on schedule here; is that fair to say?

7           MR. DAVIS: Yes.

8           THE COURT: All right. Does anyone have anything else  
9 that they want to take up with me before I let you go for the  
10 day?

11          MS. KRASINSKI: Your Honor, the defense has rule of  
12 completeness objections to two other audio exhibits of the  
13 government's, so two jail calls. I have the transcripts of the  
14 portions of the jail calls that the government intends to  
15 introduce.

16          Ms. Sheff, do you know if we have complete transcripts  
17 of either of the jail calls?

18          MS. SHEFF: I do not think we do.

19          THE COURT: How long are they? Who are they with?  
20 So, let me just review with you my basic thinking about the  
21 rule of completeness for the defense. Of course, you can  
22 preserve any objection you want, but I don't think the mere  
23 fact that relevant information is elicited in a telephone call  
24 that is replete with all kinds of other self-serving, unrelated  
25 stuff that that means the rule of completeness requires the

1 whole call to come in. That's not the standard. All right?

2 So, are you going to be arguing that the entire phone  
3 calls should come in or --

4 MR. WOLPIN: We just widened the window is essentially  
5 what we did.

6 THE COURT: All right. Can you try to get someone in  
7 your office to produce a transcript of the portion that you  
8 think should be widened so you can say to me, Judge, here's  
9 what they want to produce, here's what I think should come in  
10 under the rule of completeness? Then I can do that same  
11 exercise that I'm doing here, and I can do it more efficiently  
12 if you give me that transcript first.

13 MR. WOLPIN: Understood.

14 THE COURT: So, if you could try to produce that  
15 tomorrow so that I can effectively rule, that would be very  
16 helpful. So, I'll then take your exhibits and their request  
17 for a wider exhibit, I'll read them and figure out what should  
18 come in. All right. Is there anything else?

19 MR. LEVIN: No, your Honor.

20 THE COURT: Let me just say one thing. I have really  
21 high standards for what I expect to happen in my court, because  
22 I have such high regard for the legal profession, and I want  
23 you to understand I am not being critical of the lawyers in  
24 this courtroom. I think the lawyers in this courtroom are  
25 fantastic lawyers, very good lawyers, and they're doing a very

1 good job here. So, don't misunderstand when I say I'm  
2 confused, or I'm frustrated, or I need more to rule. It's not  
3 a criticism. You're doing what you're supposed to be doing,  
4 and I think you're doing it well, but I'm going to keep pushing  
5 ahead doing what I need to do to make sure I maximize the  
6 chance that I rule correctly on the issues that the parties  
7 present to me.

8               Okay. So, tomorrow morning come at 9:00. I hope to  
9 have a ruling on the first rule of completeness problem. I may  
10 have a ruling on the video deposition. But we're going to  
11 start at 9:30 sharp and put in a good, full day. Okay?

12              THE CLERK: All rise.

13              (WHEREUPON, the proceedings adjourned at 4:56 p.m.)

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1                   C E R T I F I C A T E

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4                   I, Brenda K. Hancock, RMR, CRR and Official Court  
5                   Reporter of the United States District Court, do hereby certify  
6                   that the foregoing transcript constitutes, to the best of my  
7                   skill and ability, a true and accurate transcription of the  
8                   within proceedings.

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Date: 5/17/21

*/s/ Brenda K. Hancock*  
Brenda K. Hancock, RMR, CRR  
Official Court Reporter